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A SURVEY OF RACE RELATIONS IN SOUTH AFRICA 1963

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POLICIES AND ATTITUDES

POLITICAL PARTIES

Nationalist Party

It is difficult to estimate public opinion between elections, but it would appear that in spite of the mounting pressure of world opinion, described later, White right-wing elements (English- as well as Afrikaans-speaking people) are increasingly aligning themselves behind Dr. Verwoerd, who is coming to be looked upon by them as the champion of *White* nationalism rather than of *Afrikaner* nationalism, as in the past. His image, in the minds of many White South Africans, seems to be that of a strong, determined man who will, for the time being at any rate, protect " White " civilization in the southernmost State of Africa against the tide of Pan-Africanism spreading from the north.

During the year under review, in the face of threats to internal security presented by the activities of Poqo, the Spear of the Nation, and other bodies, the Government has taken still further powers to enable it to contain the situation and to restrain outspoken left-wing critics. It has succeeded in re-establishing order: the cost of this in terms of human liberties is described in the pages that follow.

The Government justifies its policy of maintaining White supremacy in the major part of the country by pointing to the progress towards a degree of self-government in the Transkei. The Minister of Bantu Administration and Development has announced, however, that it is not at present the intention to grant other African areas greater powers than those of a Territorial Authority. The Transkeian plan appears to have met with some opposition within the ranks of the Nationalist Party, for groups such as the " Back to Strydom " movement led by Mr. Fritz Smit and the " Save South Africa " organization led by Professor C. F. van der Merwe have been formed. But their influence does not seem to be significant.

The converse to the Transkei Constitution Act was introduced during the year in the form of the Bantu Laws Amendment Bill. It would have reduced all Africans outside the Bantu homelands to the status of temporary sojourners, there as long as their presence was required by the White man. This measure was presented to Parliament in the closing weeks of the Session, and as it became evident that it was going to encounter much opposi-

tion the clauses concerned were shelved: it is not yet clear whether they have been dropped permanently.

The Government has suppressed the latest of a series of waves of unrest.(1) Hundreds of young men have been gaoled for periods of from two to twenty or more years. These men are, however, likely, on release, to be deeply embittered and even more determined than they were previously to continue the struggle against discriminatory legislation. Key figures in the African National Congress and Pan-African Congress have been assisted to escape from the Republic and are in close touch with "liberation" movements in other countries. The crucial question for the future is whether White South Africa can continue indefinitely to pursue present policies in the face of world opposition and ever-growing unrest among her own Non-White peoples.

United Party

During the year under review Sir de Villiers Graaff has elaborated on the United Party's race federation plan.(2) He talked of an "orderly advance", commencing with a review of legislation which is discriminatory or which offends the rule of law. In the second stage, he said, the Coloured people of the Cape and Natal would be restored to the common roll. Coloured in the Transkei, Free State, and Transvaal would be represented in the Senate if they so wished, on a separate roll. Africans would be represented by not more than 8 Whites in the Assembly and 6 Whites in the Senate. Discussions would be held with Indians to determine their future political status.

Ultimately a third stage would be embarked upon, involving the establishment of communal councils, one for the White and Coloured groups, one for the Asians, and one or possibly more for the Africans. Each council would control the more intimate affairs of its group, for example local government, education, certain aspects of health services, and matters connected with personal status and succession. Matters of national importance would fall under the purview of a central parliament in which each racial group would be represented "in accordance with the standard of civilization it had reached". In this way White leadership would be maintained and "the most advanced groups would maintain power, though sharing it with the less advanced".

The United Party came in for considerable criticism amongst other opponents of Government policies through its failure to oppose the second reading of the General Law Amendment Bill of 1963, which contained clauses providing for 90-day arrests without

(1) Previous waves of unrest are described in the booklet *Action, Reaction and Counteraction*, published by the Institute of Race Relations in 1963.

(2) *Rand Daily Mail*, 2 November 1962, and *Sunday Times*, 7 April 1963.

N.B. All dates mentioned refer to the year 1963 unless otherwise stated.

trial and for the continued detention, after completion of prison sentences, of persons considered by the Government to be likely, if released, to further the achievement of any of the statutory objects of communism. This led to the resignation of Mr. J. Hamilton Russell, M.P., who represented the Wynberg constituency. At the general election in 1961 he had received 6,311 votes against 1,911 cast for an independent, in a 72.3 per cent poll. At the by-election that followed his resignation from Parliament, Mrs. C. Taylor, of the United Party, received 3,976 votes against 1,825 cast for an independent and 1,561 for a member of the Progressive Party, in a 63.5 per cent poll. Mr. Russell subsequently became a member of the Progressive Party.

In October two right-wing members resigned from the United Party though retaining their seats: they were Senator P. W. J. Groenewald and Mr. H. Odell. Senator Groenewald joined the Nationalist Party.

Progressive Party

The Progressive Party, which, unlike those mentioned above, accepts Non-White members, stands for integration on the basis of a qualified franchise and an entrenched Bill of Rights.(3) At every opportunity during the past year it has continued to declare that some form of inter-racial State is inevitable in South Africa. Its attitude to Government policies is described in the pages that follow. As will be evident, on more than one occasion its single Parliamentary representative, Mrs. Helen Suzman, was the sole opponent of certain measures proposed by the Government.

Liberal Party

The activities of the non-racial Liberal Party, which believes that the franchise should be extended gradually on the common roll to all adult persons, without any literacy, income or other qualifications, have been impeded by Government action taken against numbers of its leaders. The National President, Mr. Alan Paton, continues to have no passport. Severe banning orders, described later, have been served against Mr. Randolph Vigne, Deputy National President, Mr. Jordan Ngubane, a National Vice-President (now living in Swaziland), and Mr. Peter Hujl, Chairman of the Cape Division and a former editor of *Contact*. Four other leaders have been warned to cease activities that might further the aims of statutory communism.

Four members of the Party, including the Cape Town Vice-Chairman, Mr. Terence Beard, were arrested and held for several

(3) See 1959-60 *Survey*, page 12, and 1962 *Survey*, page 2, for details of this Party's policy.

days in Umtata, under the emergency regulations for the Transkei.[4]

It is reported[5] that certain evidence relating to "liberals" was placed before the Commission of Inquiry into the Paarl disturbances[6] when the Commissioner, Mr. Justice Snyman, held a sitting in the Transkei. Mr. J. H. Steyn, Counsel for the S.A. Police and the Department of Bantu Administration and Development, said that information had come into his possession indicating that certain persons who were referred to as liberals had assisted in the subversive activities of Poqo.

There was no cross-examination by Mr. E. L. King, Counsel for the Institute of Race Relations and the Non-Whites of Paarl, because funds raised from voluntary sources were inadequate to allow him to go to the Transkei. At a subsequent sitting in Paarl, however, Mr. King asked that a precise definition of the term "liberal" be given in relation to the context in which it had been used by Mr. Steyn, and that the latter should identify the people to whom he referred and disclose the source and nature of his information.

Mr. Justice Snyman refused these applications. He is reported to have said, "It is true that the name of the Liberal Party has been used . . . but the reference . . . is so wide that it does not involve any individual in that Party. So far as the Party is concerned it is true that this reference to them . . . must be embarrassing and unwelcome to them. But in so far as no names have been mentioned I don't think Mr. King can rightfully ask that that source of information should be disclosed."

Coloured Representation in Parliament

Mr. G. S. P. le Roux, one of the four representatives of Coloured voters in the Cape (Karoo constituency), died in July, and was succeeded by Mr. Graham S. Eden of the United Party. Mr. Eden polled 2,099 votes as against 1,726 polled for a member of the Nationalist Party and 36 for an Independent.

Non-White Organizations

There have been no important developments during the year relating to the aims and activities of the Coloured National Convention, Coloured People's Congress, or other Coloured or Indian bodies.

The emergence and activities of Poqo and the Spear of the Nation are described in a subsequent chapter.

[4] *Rand Daily Mail*, 11 March.
[5] *Ibid.* 4 and 5 March and 26 June.
[6] Described later

Interdenominational Meetings

In 1962 the international Theological Education Fund made enquiries as to whether South Africa wished to participate in its programmes for training an indigenous ministry in various countries. As a result a South African Advisory Committee on Theological Institutes was formed, with an inter-church and inter-racial membership, the organizer of this work being Mr. F. J. van Wyk, Assistant Director of the Institute of Race Relations. The committee arranged an inter-racial Theological Institute which was held at Stutterheim during January 1963. Further such institutes are planned.

White and Non-White churchmen from South Africa, of a wide range of denominations, attended a conference at Kampala in May, sponsored by the World Council of Churches, at which plans were made for setting up an All-Africa Conference of Churches to foster greater understanding between established churches and the independent African church movements.

New President of Methodist Church

The Rev. Seth M. Mokitimi is the first African to have been chosen as the leader of a major South African church. In October he was elected president of the Methodist Church, and will take office in mid-1964.

Appeal by Professor Geyser

A description was given in last year's *Survey*[7] of the conviction of Professor A. S. Geyser on a charge of heresy by a Synodal Commission of the Nederduitsch Hervormde Kerk. Thereafter he was deposed as a minister of that church.

Professor Geyser decided to contest the commission's findings in the Supreme Court. The hearing began in May 1963 but was terminated before the evidence had been completed when the parties reached an agreement, which was made an order of court. The commission's findings were set aside, it undertook to pay all legal costs, and Professor Geyser was reinstated as a minister of the church. Representatives of the commission said that this body's interpretation of his views had been bona fide mistaken.

Pro Veritate

Mention was made last year of the launching in May 1962 of a Christian monthly publication named *Pro Veritate*, with an inter-racial and inter-denominational editorial board. The editor

[7] Page 4.

MEASURES INTRODUCED BY THE GOVERNMENT TO DEAL WITH THE DISORDER

INTERIM REPORT BY MR. JUSTICE SNYMAN

During March 1963, when his inquiry was still in progress, Mr. Justice Snyman became alarmed at the extent of Poqo activities and plans, and submitted an interim report to the Minister of Justice. The State, he considered, ought to take swift action to deal with the situation, and to regain the trust of Africans generally in the State's ability to give them protection.

The judge pointed out[1] that in order to institute successful actions against Poqo members for carrying on the activities of an unlawful organization it was necessary in each individual case for the State to prove that there was a link between Poqo and the banned P.A.C. This caused a waste of time, unnecessary costs, and delays in criminal hearings. He recommended that retrospective legislation should be introduced to overcome this difficulty. He recommended, further, that preparatory examinations be eliminated in certain cases and that special courts be held to speed up action.

Shortly afterwards the Government introduced the General Law Amendment Act of 1963, the terms of which went far beyond the suggestions made by the judge.

The Minister of Justice said[2] that this legislation was needed because the police had been operating with obsolete weapons: they were bound to rules and laws that had not been designed for a situation such as that which existed.

GENERAL LAW AMENDMENT ACT, NO. 37 OF 1963

Terms of the Act

a) Unlawful organizations

The Act empowered the President to declare that any organization or group of persons which has been in existence since 7 April 1960 is or was in fact an organization which has been declared unlawful.[3] Any act or omission proved in court with

(1) *Rand Daily Mail* report, 22 March.
(2) Assembly, 24 April, Hansard 13 col. 4648.
(3) Under the Suppression of Communism Act of 1950 as amended, the Unlawful Organizations Act of 1960, or the General Law Amendment Act of 1962.

reference to the stated organization will be deemed to have been proved with reference to the unlawful organization concerned.

Should the President declare that subsequent to a stated date any body or movement was in fact an organization which had previously been banned, anyone who at any time thereafter was an office bearer, officer or member of this body or movement will, for the purpose of any criminal proceedings, be deemed to have been an office bearer, officer or member of the banned organization during the period concerned.

No court of law will have jurisdiction to pronounce upon the validity of a proclamation issued by the President in terms of this Section.

The Unlawful Organizations Act provided that certain of the provisions of the Suppression of Communism Act would apply to any organization declared unlawful.[4] *Inter alia*, anyone who performs or advocates any act or omission calculated to further the objects, aims or activities of an organization declared unlawful was rendered guilty of an offence, liable upon conviction to a sentence of imprisonment of at least a year, but not exceeding ten years.[5]

The General Law Amendment Act of 1963 added that it is an offence to further objects similar to those of a banned organization. The Minister of Justice said[6] that this clause had been included as a result of the acquittal of Mr. Duma Nokwe and eleven others in 1962.[7]

b) Continued detention after completion of prison sentences

The Act enabled the Minister to take further action against persons sentenced to imprisonment for offences under the Public Safety Act, the Criminal Law Amendment Act of 1953 as amended, the Riotous Assemblies Act, the sabotage clauses of the General Law Amendment Act of 1962, and the new Act itself. It provided that if he is satisfied that such a person is, after his release, likely to further the achievement of any of the statutory objects of communism, the Minister may issue a notice prohibiting the person, after serving his sentence, from absenting himself from a prison for the period during which the notice is in force. Conditions may be imposed.

The Minister accepted an amendment moved by the United Party to the effect that these provisions will lapse on 30 June 1964 but may be extended for periods of 12 months at a time by resolution of both Houses of Parliament.

(4) See 1959-60 *Survey*, page 70.
(5) Penalty as amended in 1962.
(6) Assembly, 24 April 1963, Hansard 13 col. 4656.
(7) See 1962 *Survey*, page 3.

He said[8] that these powers were urgently needed because Mr. R. M. Sobukwe (President of the P.A.C.) would shortly have completed his prison sentence and had undergone no change of heart. His continued detention was necessary for the security of the State. The names of all persons so detained would be tabled in Parliament.

c) **Detention for interrogation**

The Act provides that a commissioned officer of the police may without warrant arrest or cause to be arrested any person:

(i) whom he suspects has committed or intends to commit sabotage or any offence under the Suppression of Communism or Unlawful Organizations Acts (e.g. carrying on the activities of a banned organization, furthering the statutory aims of communism, publishing or disseminating a banned publication, failing to comply with the terms of a banning notice, etc.);

(ii) who in the police officer's opinion is in possession of any information relating to the commission or intended commission of such an offence.

A person so arrested will be detained in custody for interrogation at any place the police officer thinks fit until this person has, in the opinion of the Commissioner of Police, replied satisfactorily to all questions put to him. No one may be detained for more than 90 days on any particular occasion (but a person may be re-arrested immediately on the completion of a period of 90-day detention and then held for a further 90 days, and this process may be repeated). No court of law has the power to order the release of a detained person from custody; but the Minister of Justice may direct that the person be released.

The Bill stated that except with the permission of the Minister of Justice or a commissioned police officer no one shall have access to a person so detained. The Minister accepted an amendment moved by the United Party providing that a detained person shall be visited in private by a magistrate at least once a week. He refused to insert another proposed amendment to the effect that detainees might be visited by legal practitioners.[9]

The Bill originally stated that the State President might from time to time suspend the provisions of this Section of the Act for a definite or an indefinite period. The Minister accepted a United Party amendment, and the Act now provides that this Section will be in operation until 30 June 1964, and for such further periods thereafter not exceeding 12 months at a time as the President may determine by proclamation. Such a proclamation may be issued

(8) Cols. 4652, 4762.
(9) Col. 4872.

at any time, even when the Section has ceased to be in operation. The President may by proclamation suspend the operation of the Section or withdraw a previous proclamation issued by him.

When introducing the Bill the Minister said[10] that up to that stage the nucleus of leaders behind subversive movements had not been captured. The new provisions would enable the police to obtain information about these leaders.

d) **Detention for twelve days**

The Act extended until 1 June 1964 the provision of the Criminal Procedure Act[11] which empowers an Attorney-General, if he considers it necessary in the interests of the safety of the public or the maintenance of public order, to issue an order stating that a person arrested on a charge of having committed any offence shall not be released on bail or otherwise for twelve days.

e) **Actions performed outside the Republic**

It is provided that a resident or former resident of the Republic has committed an offence if, at any place outside South Africa since 26 June 1950:

(i) he has advocated the achievement by violent or forcible means of any object directed at bringing about any political, industrial, social or economic change within the Republic, or the achievement of any of the statutory objects of communism, by the intervention or with the guidance or assistance of any foreign government, body or institution;

(ii) he has undergone training or has obtained any information which could be of use in furthering the achievement of any of the objects of communism or of an organization declared unlawful, and fails to prove beyond a reasonable doubt that he did not do so for the purpose of furthering such an object.

The General Law Amendment Act of 1962 provided that any document on the face whereof it appears that a person of a name corresponding to that of an accused person has at any time been outside the Republic shall, on its mere production in any criminal proceedings, be *prima facie* proof that the accused was outside the Republic at such time, if such document is accompanied by a certificate purporting to have been signed by the Secretary for Foreign Affairs to the effect that he is satisfied that such document is of foreign origin.

The 1963 Act added to this by including under the provisions of the previous paragraph any document on the face whereof it

(10) Col. 4854.
(11) Act 56 of 1955 as amended in 1961 and 1962.

appears that a person has made any statement outside the Republic.

If an accused is found guilty the death penalty may be imposed. The minimum sentence is five years' imprisonment (whether or not any other penalty is also imposed). This applies to juveniles, too. Sentences may not be suspended.

The Minister said[12] that people were slipping out of the country to Tanganyika, where they were provided with travel documents and then dispersed to receive training in sabotage at Addis Ababa and places in Egypt, Ghana, and elsewhere. Without the new provisions such persons could be charged only with leaving the country unlawfully: the maximum penalty for this offence was two years' imprisonment. More severe penalties were required.

f) Arrest of persons who leave areas to which they have been confined

The Act increased the powers of the police to arrest persons who leave areas to which they have been confined in terms of banning orders, and to take them back to the areas concerned.

g) Possible refusal of bail

Another provision is that the execution of any sentence imposed in a magistrate's court (except whipping) shall not be suspended when court records are sent for review or an appeal is lodged unless the magistrate considers it fit to allow the convicted person to be released on bail. If the sentence is a fine with the alternative of imprisonment and the magistrate has reason to believe that the convicted person can pay the fine, bail may for this sole reason be refused.

(In criminal cases where the sentence imposed by a magistrate is as much or more than three months' detention, or a fine of R50, or whipping—except in certain circumstances when a male juvenile is sentenced to cuts—the sentence is subject to review by a judge. Convicted persons may in certain circumstances apply for their sentences to be reviewed.)

Magistrates are given wider powers than they possessed previously to impose conditions of bail. As before, convicted persons may appeal to a superior court against the refusal of bail, and may be arrested if they are about to abscond.

The Minister explained this clause by saying[13] that magistrates already had power to refuse bail before a case was heard, or if an accused was committed for trial after a preparatory examination. In each of these instances the person concerned might later be found innocent, or the Attorney-General might decide not to prosecute. But it was an anomaly in the law that when an accused

[12] Col. 4653.
[13] Cols. 4650, 4731.

had been found guilty and the sentence went on review or an appeal was lodged the magistrate was obliged to grant bail, even if he suspected that the person might abscond.

h) Summary trials, and juries

The Act provides that if in the opinion of an Attorney-General danger of interference with or intimidation of witnesses exists, or if he deems it to be in the interests of the safety of the State or in the public interest, he may direct that an accused person be tried summarily in a superior court without a preparatory examination.

Such a trial may be held at any time determined by the Attorney-General, and at any place he determines within the area of jurisdiction of the division of the Supreme Court concerned.

For reasons similar to those given above an Attorney-General may direct that a trial shall take place without a jury.

Joint trials may be held when persons are charged under the Suppression of Communism Act.

The Minister stated,[14] "A difficulty which faces Attorney-Generals in prosecuting persons for Poqo crimes is that the witnesses against the alleged criminals often disappear without a trace; that they are intimidated, assaulted, and even murdered". If it was suspected that this might happen a summary trial would be ordered, if necessary in a special court.

i) Seizure of postal articles

The Post Office Act provides[15] that if there are reasonable grounds for suspecting that any postal article or telegram will afford evidence of the commission of a criminal offence, or is being sent to further the commission of an offence or to enable the detection of an offence to be concealed, the article or telegram shall, on the written request of a public prosecutor, be detained by the postal officials. If the Minister and Postmaster-General so direct it will be handed to the prosecutor.

The new Act makes certain changes. Such an article or telegram will be detained by the officer in charge of the post office through which it passes. The Postmaster-General may bring its detention to the notice of an Attorney-General, and, at the latter's request, cause it to be handed to a public prosecutor.

According to the Minister[16] Mr. Leballo and others in Maseru had been sending telegrams in a simple code to persons in the Republic. In terms of previously existing law the Post Office was bound to deliver these, and, should there be a court case, the

[14] Assembly Hansard 10 cols 3322-3, Hansard 13 col. 4654.
[15] Act 44 of 1958, Section 118.
[16] Col. 4656.

prosecutor could not obtain the original because it had been posted outside the country.

j) **Definition of "place"**

In a judgment given in December 1962 Mr. Justice Trollip held that a "place", to which a person might be confined under house arrest, did not mean a person's residence, dwelling or house. It meant a unit of space more extensive than or different from this.

The 1963 Act defines "place" as meaning "any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop, structure, vessel, aircraft or vehicle, and any part of a place".

The Minister explained[17] that the authorities required power to forbid persons from boarding vessels or aircraft.

k) **Protected places or areas**

The Act provides that the Minister may declare any place or area to be a protected place or area if he considers it to be in the public interest or in the interest of the safety of the State to prevent unauthorized persons from being within it. Anyone who enters such an area without the consent of the person in charge or someone acting under his authority will be guilty of an offence, and liable on conviction to imprisonment for a period not exceeding 15 years.

The Minister may order the owner or occupier to ensure that if anyone is allowed to enter the area this consent is in the form of a permit containing such conditions as the Minister may specify. Anyone who fails to comply with such conditions will be guilty of an offence, and liable on conviction to maximum penalties of R500 or six months.

The Minister may order the owner or occupier of a protected place or area, at the latter's own expense and within a specified period, to take stated precautionary measures (including the erection of fences) for safeguarding it, and to erect warning notices. Should the owner or occupier refuse or fail to comply the Minister may cause the required action to be taken, recovering the costs from the owner or occupier. The Minister may without prior notice designate a State official to be, for a stated period, the person in charge of a protected place or area for the purposes of safeguarding it. Such person, together with the assistants he requires, may enter the place or area and take any measures he considers are necessary for safeguarding it. The Government will not be liable for any loss of life, bodily injury, or damage to property caused by measures taken in terms of this paragraph.

[17] Col. 4651.

Parliamentary debate

During the Second Reading debate Sir de Villiers Graaff, Leader of the United Party, said[18] that time and time again the Government had asked for increased powers, but ideologies could not be defeated with legislation. His Party had repeatedly pointed out that urban Africans were being given no real stake in the maintenance of law and order and were becoming a fertile seed-bed for the dissemination of foreign ideologies.

The United Party would support the Bill at its Second Reading, Sir de Villiers said, but with great regret. It had previously given the assurance that it would support reasonable legislation which carried out the recommendations in the Snyman report. But it would challenge several of the clauses, which went beyond Mr. Justice Snyman's recommendations, in the Committee stage. (It is mentioned earlier that two amendments were accepted by the Minister as a result.) The United Party voted against certain clauses in the Committee stage but supported the Bill at its Third Reading. The Coloured representatives adopted a similar line.

Only Mrs. Helen Suzman of the Progressive Party voted against the Bill at every stage. In order to fight communism, she said,[19] the Government was taking powers that were found only in totalitarian countries. The Bill undermined fundamental principles of the rule of law: South Africans were being made to sacrifice their civil liberties in order to allow apartheid to flourish. The measure translated emergency regulations into permanent legislation. If the country was in a state of emergency (which she did not believe) the Government should proclaim that such a state of emergency existed and should issue temporary regulations giving it the powers that it required.

Mrs. Suzman talked of the grievances of Non-Whites and said that these must be remedied if subversive activities were to be prevented. Peaceful protests had been suppressed, and inevitably less peaceful methods had then been employed, leading to the present state of affairs. More and more people who were formerly peace-loving would be driven to desperate acts of violence before the final chapters of the struggle in progress were written, she warned. Legislation such as that before the House would bring the day of violence nearer.

The Minister replied[20] that it would be most harmful to the country's economy to proclaim a state of emergency, and this was in any case not warranted since no spontaneous rebellion was in progress.

[18] Cols. 4662-70.
[19] Cols. 4671-8.
[20] Col. 4688.

Other protests

Numbers of protest meetings against the Bill were arranged by the Progressive Party, the Black Sash, the National Union of S.A. Students, and others. These bodies, the International Commission of Jurists, trade union organizations, and various other groups issued statements expressing their opposition to the measure.

In its statement[21] the Institute of Race Relations said: "We now have in South Africa a situation which is the inevitable result of the successive waves of increasingly discriminatory legislation and which the Institute has predicted on many occasions. No government can govern effectively without the consent of those governed; consent has never been sought or given and inexorably events are catching up with our past deeds".

The Institute stated that it did not consider the drastic steps contained in the Bill to be necessary. It was convinced that there was still time for the Government to call a conference of the real leaders of the Non-White peoples to discuss what steps should be taken to calm the passions that had been roused and to develop measures which would correct the situation. If necessary the Institute would take the lead in convening such a conference, but it could not do so without the co-operation of the Government.

Action taken under the Act

Action taken by the Government under the General Law Amendment Act is described in later chapters of this *Survey*.

EXPLOSIVES AMENDMENT ACT, NO. 21 OF 1963

This measure increased the maximum penalties under the principal Act of 1956. A minimum penalty of three years was introduced for persons found guilty of wilfully causing an explosion which endangers life but from which no death results. (Should death result the accused would, of course, be tried on a graver charge.)

CRIMINAL PROCEDURE AMENDMENT BILL

This Bill, as first presented to Parliament, contained clauses which were dropped for the time being following representations from the General Bar Council and consultation with the Bench. The Minister of Justice announced[22] that further consultations would be held during the recess. "At a later stage we may come back to the House with a Bill which can be discussed fully", he said.

[21] Published in *Race Relations News*, April 1963.
[22] Assembly, 25 June 1963, Hansard 22 col. 8721.

The clauses concerned dealt with confessions and statements by accused persons.

The principal Act provides[23] that a confession that is proved to have been made by an accused, whether in writing or not, shall be admissible in evidence if it is proved to have been made freely and voluntarily by the accused in his sound and sober senses, and without having been unduly influenced thereto, provided that:

a) if the confession was made to a peace officer (other than a judge or magistrate) it must be confirmed and reduced to writing in the presence of a judge or magistrate; and
b) if the confession is made at a preparatory examination, the magistrate must warn the accused that he is not obliged to make any statement which may incriminate him.

In terms of the Bill both these provisos were to have been deleted. Furthermore, the Bill provided that a statement made by an accused to a peace officer would be admissible as evidence whether or not the peace officer warned the accused that he was not obliged to say anything or to reply to any question and that anything he said might be used in evidence against him.

GENERAL LAW FURTHER AMENDMENT BILL

This Bill, too, contained a clause that was dropped. It dealt with criminal charges in which it is alleged that persons conspired to commit or aid an offence, or to incite or encourage others to do so. It stated that in such charges it would be unnecessary for the prosecution to state the manner in which the conspiracy, aid, incitement or encouragement took place, or the manner in which any person identified himself therewith.

Such a charge, it was stated, would not be open to objection or to being quashed on the grounds that these particulars were not stated. The court would have no power to order that these particulars should be supplied to any accused.

(Had this clause been enacted the indictment in the Rivonia case, described later, could not have been quashed for the reasons given by the judge.)

DEFENCE AMENDMENT ACT, NO. 77 OF 1963

The Defence Amendment Act provides that the S.A. Defence Force or any portion or member of it may be employed, not only on service in the defence of the Republic, but also on service in the prevention or suppression of internal disorder, the preservation of life, health, or property, the maintenance of essential services, or on such police duties as may be prescribed. If employed on

[23] Section 244 (1) of Act 56 of 1955 as amended.

police duties these persons will have the powers, functions, and indemnities conferred by law on members of the police.

The State President has power under the principal Act to mobilize the whole or any part of the Citizen Force, Reserve, or a Commando for duties such as those described above. The Minister of Defence can do so too, but any such action taken by him must be confirmed by the President within four days. Members of the Citizen Force, Reserve, or a Commando who are on full-time duty or are undergoing training may be used for these duties only on the personal authorization of the Minister.

The Amendment makes it possible for these formalities to be dispensed with in times of emergency. Firstly, members of the Citizen Force, Reserve, or a Commando who are on service or are undergoing training may be ordered by the military authorities to assist the full-time Defence Force in the duties mentioned. No service by such persons in the defence of the Republic shall extend for more than four days beyond the termination of the period during which they would otherwise have been on military duty, and no service in the maintenance of order or on police duties may extend for more than seven days beyond this period. If the disorder has not been suppressed by this time the President will mobilize such units as are considered to be needed.

Secondly, if an urgent situation develops in any magisterial district the local police can call on the most senior Defence Force officer in the area to place at their disposal the services of members of the Defence Force in the district at the time. Such action will remain in force for 24 hours only: within that period the President will mobilize Citizen Force or other units if necessary.

DEVELOPMENTS IN THE DEFENCE AND POLICE FORCES

Expenditure on Defence

In his Budget Speech[24] the Minister of Finance said that the sum to be spent on defence in 1963-64 would be R35,000,000 more than in 1962-63. It was made up as follows:

R122,000,000 from Revenue Account;
R 26,111,000 from Loan Account for special equipment;
R 7,000,000 from the surplus in previous years;
R 2,000,000 from schemes for share purchases abroad.

R157,111,000

A responsible government, the Minister added, had also to ensure the country's internal security, thus the Police vote for 1963-64 would be R5,000,000 larger than in the previous year.

(24) Assembly, 20 March 1963, Hansard 9 cols. 3054, 3056.

The creation of a Special Equipment Account from loan funds was a departure from the country's normal peacetime policy, he said, but "for South Africa, the present time may almost be regarded as a period of cold war, calling for large expenditures over a relatively short period on expensive defence equipment". The increased vote for defence "is the formidable price we are called upon to pay for our protection from foreign aggression . . . The prospects are that we shall be called upon to pay this premium on our policy of national security on a considerable scale for some years to come".

On another occasion the Minister said[25] that the vote of R157,111,000 was about 13.6 per cent of the total State expenditure from Revenue and Loan Accounts. But other countries devoted a higher proportion of their total expenditure to defence: in Australia the proportion was 15 per cent, in Britain 20.9 per cent, in Canada 26.4 per cent, and in the United States 57.5 per cent.

(The South African figures do not, of course, include research in outer space travel, experimentation in strategic naval, aviation, and military equipment and the manufacture of such strategic equipment, and other items on which the Western Powers spend very large sums. According to the United States Information Office in Johannesburg the Federal United States Budget for 1963-64 provided for a total expenditure of $122,500,000,000. Of this, $56,000,000,000 (or about 45.7 per cent) was for defence (excluding space projects). About 9 per cent of the defence vote was allocated for military assistance to foreign countries, atomic energy research and related projects.)

Supply of arms to South Africa

Early in 1963 the Afro-Asian bloc, supported by certain other nations, began a campaign for the banning of supplies of arms to South Africa. In May more than 100 Labour and Liberal Members of Parliament in Britain signed a petition calling on Her Majesty's Government to propose to the United Nations that a general embargo should be placed on the export of arms and military equipment to South Africa.[26]

The United States announced to the Security Council in August that it expected to stop all sales of military equipment to South Africa by the end of 1963. Existing contracts for strategic defence equipment suitable for use against external threats would, however, be honoured. The embargo might be revised if the interests of the world community required the provision of material in a common defence effort.[27]

(25) Assembly, 1 April, Hansard 11 col. 3777.
(26) *Rand Daily Mail*, 17 May.
(27) *Ibid.* 3 August.

A few days later, at the proposal of Ghana, Morocco, and the Philippines, the Security Council called on all countries to cease the sale of arms, ammunition of all types, and military vehicles to South Africa. The Secretary-General was asked to report on the response. He stated later that 44 countries had agreed to refuse the sale of arms that could be used to enforce the apartheid policy: a further country did so a few days later. Those who agreed included the United States (subject to the provisos mentioned above), Italy, Belgium, Austria, Holland, the Scandinavian countries, Japan, Israel, Russia, China, India, and numbers of African and other Central European states.

The British Prime Minister announced that Britain would cut off supplies of weapons that could be used for suppression, but would continue to sell equipment that might be required for strategic defence against outside aggression and any arms that it considered were needed for the joint British-South African protection of the shipping route round the Cape, in terms of the Simonstown Agreement.[28] France, too, decided that it would supply only material for strategic defence against outside aggression.

At the time of writing Western Germany and Spain, among others, had not announced their decision.

The South African Minister of Defence said that arms and ammunition were already being manufactured in the Republic, and that numbers of overseas arms manufacturers were interested in establishing factories in South Africa.

The Government's import replacement scheme is described in a subsequent chapter.

Expansion of Citizen Force

In 1961 the Government decided to expand the Citizen Force and to give longer and more thorough training to White youths selected by ballot to become members of this force.[29] During April 1963[30] the Minister of Defence announced that 16,527 youths would be called up that year for nine months' training, as against 10,368 in 1962.

Re-Establishment of the Cape Corps

The Minister stated, too,[31] that the Cape Corps was to be re-established as from 1 April 1963. During the first year 140 recruits would be accepted, but thereafter the numbers would be increased annually. Members would not serve in combatant capacities. Initially they would be trained as drivers, guards, stretcher bearers, and cooks, and would learn drill and the handling of single shot small arms for self-defence and the protection of government property.

Police Reserve

A Police Reserve, consisting of White volunteers, was established in 1962.[32] The original intention was that it should have 5,000 members, and 1,261 were in training in a part-time capacity at the beginning of 1963, working with experienced members of the force and gaining experience of patrolling and charge office duties.[33]

After the commencement of acts of sabotage, however, and especially following the publication of Mr. Justice Snyman's interim report on the activities of Poqo, numbers of home guard movements or civilian protection organizations were formed by private White citizens in various towns—Krugersdorp, Pretoria, Paarl, Cape Town, Rustenburg, Barberton, and others.

Realizing that private forces, however well-intentioned, might create situations that they could not control, the Minister of Justice decided to reorganize the Police Reserve to take in the services of members of these private organizations. Senior police officers attended meetings of the various home guards, pointed out that there was no provision in law for such bodies, and urged members to join the Reserve instead.

The plan that was evolved[34] was that four groups would be created. "A" group men would be absorbed into the standing voluntary police reserve and receive normal reservist training. If called up on duty in times of emergency they would be issued with armbands, whistles, and batons; and firearms might be supplied should the district commandant of police consider this necessary.

"B" group men would be trained to defend homes and other private property in the areas where they lived. Group leaders, who must be regular police reservists, would be elected by local members.

Besides these there would be a "C" group consisting of employees of mines, essential municipal and other services, factories, etc. They would be trained, under the command of regular members of the force, to guard vulnerable points at times of emergency. Finally, a "D" group would consist of country reservists.

Numbers of these units have, since, been formed. The strength of the Police Reserve increased from 1,261 at the beginning of the year to 12,000 in July, and the membership has continued to

(28) *Star*, 8 and 13 August; *Rand Daily Mail*, 8 August and 15 October.
(29) See 1961 *Survey*, page 35.
(30) *Sunday Times*, 14 April.
(31) Assembly, 19 February, Hansard 5 col. 1576.

(32) Regulations for this Reserve were published as G.N. 1016 of 29 June 1962.
(33) Minister of Justice, Assembly 15 February, Hansard 4 col. 1398.
(34) Various statements by the Assistant Commissioner in Charge of Police Reserves, e.g. *Star*, 26 February, *Rand Daily Mail*, 8 and 18 April.

mount.[35] A booklet entitled *The Police Reservist's Guide* was distributed during May.

Considering that they needed more police protection than was being afforded them in their residential areas, Coloured, Indian, and African citizens in various centres formed "protection societies", "escort committees", or home guards. Again, abuses seemed likely.[36] The Minister of Justice announced in April[37] that it had been decided to create a Police Reserve for Coloured and Indian men. Members would undergo a thorough course of training, and in times of emergency might be called upon to assist with charge office and beat duties and in the protection of vulnerable points. If there were adequate numbers of volunteers "B" groups might be formed. Consideration would be given to establishing similar African units. The Minister said it was known that a large number of Africans were "prepared, in fact keen, to contribute their share towards police protection and the safety of the State. Their patriotism is appreciated".

(35) *Ibid*, 16 July.
(36) The *Natal Mercury* of 18 April carried a report of assaults committed by persons posing as home guards.
(37) *Star*, 11 April.

ACTION TAKEN BY THE GOVERNMENT AGAINST PERSONS AND ORGANIZATIONS

BANISHMENT OF AFRICANS

During the year under review the Government has taken action mainly in terms of legislation passed in 1962 and 1963, and few further Africans have been banished from their home areas in terms of Section 5 (1) (b) of the Native Administration Act of 1927.[1]

In reply to questions in the Assembly the Minister of Bantu Administration and Development said[2] that during the 18 months preceding June 1963, six Africans had been banished, one died, four escaped, three were allowed home conditionally, and in 16 cases the orders were withdrawn. Apparently in mid-June 1963 there were 31 still in banishment.

BANNING ORDERS

POWERS OF THE MINISTER OF JUSTICE

The Suppression of Communism Act of 1950 as amended empowered the Minister of Justice to take action of the nature described below against the following categories of persons:

(a) persons listed as being members or active supporters of an organization declared unlawful under the Act (the Communist Party);

(b) persons listed as being members or active supporters of any other organizations deemed unlawful (the A.N.C., P.A.C., C.O.D., and later Poqo, the Spear of the Nation, the Y.C.C.C., and bodies deemed to be carrying on any of the activities of these organizations);

(c) persons convicted of actions deemed to have furthered the aims of statutory communism;

(d) persons deemed by the Minister to be promoting any of the aims of communism, or likely to do so, or engaging in activities which may do so.

(1) See 1962 *Survey*, page 19, for the terms of this Section and for action taken under it in 1962. A full account of the system of banishment is given in the Institute's publication *Action, Reaction and Counteraction*.
(2) Assembly 29 January, Hansard 2 col. 382; and 18 June, Hansard 21 col. 8121.

Action of the type described below may be taken against such persons.

1. Persons in these categories and those on whom any banning order has been served may be prohibited from becoming or being members of specified organizations or organizations of a specified nature.
2. Persons in the four categories mentioned may be forbidden to attend gatherings of any kind, including social gatherings, for a specified period. A five-year ban is generally imposed. It is an offence to record, publish, or disseminate any speech, utterance or writing made at any time by persons under this type of ban unless the Minister's consent has been obtained or except for the purposes of proceedings in any court of law. (Certain qualifications subsequently made are described on page 41.)
3. Subject to such exceptions as he may specify, or as he or a magistrate may authorize, the Minister may prohibit persons in the categories mentioned, during a specified period, from being within or absenting themselves from any stated place or area (this allows for the issuing of house arrest orders as well as for notices confining the person concerned to a specified magisterial district, a town, or a suburb thereof). While the prohibition is in force the Minister may also prohibit the person concerned from performing any specified act.

   Before deciding to issue a prohibition of this nature the Minister may instruct a magistrate to warn the person concerned to refrain from engaging in any activities calculated to further the achievement of any of the objects of communism.
4. A person whose movements have been restricted may be prohibited from communicating with anyone whose name has been listed or who has been served with a banning order.
5. A person confined to house arrest may be forbidden to receive visitors other than the advocate or attorney managing his affairs, provided this lawyer's name has not been listed or he has not been served with a banning notice.
6. The Minister may require any listed or banned person to report to the officer in charge of a police station at such times and during such period as may be specified.
7. It is an offence for a listed or banned person to change his place of residence or his employment without giving notice forthwith to the officer in charge of a police station.
8. In terms of Government Notice 2130 of 28 December 1962 persons in the four categories mentioned and those on whom any banning order has been served were prohibited from being members or office-bearers of certain organizations or types of organizations unless with special permission from the Minister of Justice or a magistrate.

   Thirty-five organizations were specifically listed, including all the major Non-White political organizations, the S.A. Congress of Trade Unions, the leading Coloured teachers' organizations, and the Civil Rights League. Membership was prohibited, too, of any organization which in any way furthers any of the objects of a body specifically listed; of an unregistered trade union (no African unions can be registered); and of "any organization which in any manner propagates, defends, attacks, criticizes or discusses any form of State, or any principle or policy of the Government of a State, or which in any manner undermines the authority of the Government of a State".

   Numbers of trade unionists were forced to resign from their unions, and various trade union organizers lost their means of livelihood.
9. Government Notice 296 of 22 February 1963 prohibited all persons in the categories mentioned above from being office-bearers, officers or members of an organization which in any manner prepares, compiles, prints, publishes or disseminates any publication, or which assists in doing so, unless special permission is given.

   As a result of this ruling numbers of journalists lost their jobs.

NUMBERS OF "LISTED" PERSONS

On 16 November 1962 the Minister released to the Press a list of 437 named communists: 129 Whites and 308 Non-Whites. He did not state whether this list was exhaustive. Numbers of the persons listed had been politically inactive for some years, numbers more had left the country, and, according to Press reports, two had died. One of those concerned, Mr. H. Shekwane, had been publicly praised by the Department of Information for his successful running of a small private factory near Pretoria: his name was subsequently removed from the list.

According to incomplete sources of information available to the writer, by October 1963 at least 81 of the named communists had left South Africa.

No lists have been published of persons who may have been listed as members or active supporters of the A.N.C., P.A.C., and bodies deemed to have been continuing their activities.

It was reported on 8 September 1963 that former office-bearers, officers, members, and active supporters of the Congress of Democrats (which was banned in September 1962) had been served with notices giving them a week within which to show cause why

their names should not be included in a new list of "named" persons.

CONVICTIONS UNDER POLITICALLY RESTRICTIVE LEGISLATION

No statistics have been published indicating the total number of persons who have been convicted under politically restrictive legislation. In 1962 the Minister announced[3] that during the previous year 43 persons had been convicted under the Suppression of Communism Act, 75 under the Riotous Assemblies Act, and 24 under the Public Safety Act.

There have been numbers of convictions during 1963: of persons who had been ordered to report to the police at stated times and who for some reason failed to do so on one occasion or more; of those under house arrest who absented themselves from home without permission; of those who communicated with other banned or listed persons without obtaining authority; of people who absented themselves without permission from a district to which they had been confined; of men and women who attended a gathering in contravention of a banning order; and of listed persons who changed their places of residence without notifying the police. Some of these people left the country while on bail pending appeal against sentences imposed.

A case which received much publicity was that of Mr. Dennis Brutus, president of the South African Non-Racial Olympics Committee (SANROC), an organization founded to combat racial discrimination in sport and to strive for the full national and international recognition of all South African sportsmen. He was charged with having attended a gathering in defiance of a banning order, but while on bail he fled to Swaziland. He held a Federation passport (having been born in Salisbury) with a valid *visa* for transit through Mozambique; and in September 1963 he entered Portuguese territory with the intention of going by sea to try to attend an Olympic Games Committee meeting in Germany. The Portuguese Security Branch arrested him, handing him over to policemen from South Africa who escorted him back to Johannesburg.

Mr. Brutus attempted to escape from the police, but was shot as he ran down the road. He was taken to hospital under police guard, and later to gaol.

The department of the Federal Minister of External Affairs in Salisbury subsequently stated that although Mr. Brutus held a Federal passport he was a South African citizen, having lived permanently in South Africa from a very early age and having consistently laid claim to South African nationality. He was, thus, not entitled to Federal protection or intervention on his behalf.

[3] Assembly, 26 February 1962, Hansard 6 col. 1956.

At the time of writing the legal outcome of Mr. Brutus's case had not been decided.

BANNING ORDERS SERVED

It was mentioned last year[4] that on 31 July 1962 the Minister released a list of the names of 102 persons who were then in possession of current orders banning them from attending gatherings—52 Whites, 35 Africans, 9 Coloured, and 6 Indians.

Since then and up to the time of writing (3 December 1963) at least 130 names have been added. Most of the prominent Non-White political leaders and numerous White sympathizers are included.

The Minister announced on 3 August 1962 that newspapers might publish evidence, cross-examination, and argument advanced in a court case concerning persons whose names are on the list, provided that this concession is not used to circumvent the intentions of the Act—i.e. to give a platform to banned persons.

Later, on 15 December 1962, he stated[5] that a speaker in the Senate, House of Assembly, a provincial council, or at the United Nations could quote or refer to a speech, remark, article or statement of a banned person. There was no objection to the publication of reports of such a speech.

A person found in possession of a publication containing a speech or the writings of anyone forbidden to attend meetings did not commit an offence, the Minister continued, provided that the speech or writing was made before 27 June 1962 and that the owner of the publication did not make it available to anyone else.

Public libraries and the libraries of educational institutions could retain such publications and could lend them to their members, but these members could not share them with other members or with their friends.

This dispensation to libraries did not cover books or pamphlets written by or containing statements by banned persons after 27 June 1962 unless special permission had been given for the publication to be issued.

Similar arrangements applied to banned publications.

Some of the banning orders issued prior to the enactment of the General Law Amendment Act of 1962 remain in force, or have been renewed. This Act made it possible for a variety of new orders to be issued.

According to the incomplete sources of information available to the writer, of at least 232 persons in possession of current banning orders as at 3 December 1963:

All were forbidden to attend political gatherings;
66 were also forbidden to attend social gatherings;
25 had been served with orders of house arrest;

[4] 1962 *Survey*, page 46.
[5] e.g. *Star*, 15 December 1962.

120 were confined to specified magisterial districts;
28 were also confined to sub-areas, for example a particular township;
1 was confined to the township where he lives from 8 p.m. to 6 a.m. during the week;
59 were forbidden to enter any Non-White areas (other than the areas where they lived in the cases of Non-White people);
51 (mainly trade unionists) were forbidden to enter factories;
2 were forbidden to enter mine premises;
4 were prohibited from entering railway premises or harbours;
4 were forbidden to enter the premises of 35 specified organizations or any other organization which in any way discusses any form of State, any policy of a State, or which in any way undermines the authority of the government of a State.
All were prohibited from being members of such organizations (unless with special permission);
All were prohibited from being office-bearers, officers or members of an organization which in any way prepares, publishes or distributes any publication (unless with special permission);
23 were prohibited from being concerned in any way with the preparation, printing or publication of any newspaper, magazine, pamphlet, book, handbill or poster (unless with special permission);
19 were forbidden to enter any premises where a publication is produced;
58 were forbidden to communicate in any way with listed or banned people;
3 were forbidden to communicate with anyone except members of their families;
65 were ordered to report daily or weekly to the police;
26 were forbidden to give lectures or to enter educational institutions;
2 were forbidden to communicate with a newspaper;
1 was forbidden to communicate with members of the S.A. Congress of Trade Unions or the Federation of S.A. Women;
1 was forbidden to enter any court of law except as a petitioner, accused, or witness;
1 was prohibited from visiting any hospital.
(There is, of course, overlapping between those figures.)

Numbers of people lost their employment as the result of these banning orders.

ORDERS OF HOUSE ARREST

The orders of house arrest served during 1962 on Mrs. Helen Joseph and certain others were described in the previous issue of this *Survey*.[6] Further notices have been served since. At the time of writing the full list was:

Name	*Period required to remain at home during the week:*
Mr. R. I. Arenstein	13 hrs.
Mr. L. G. Bernstein	12 hrs.
Mr. B. P. Bunting	13 hrs.
Mrs. Sonia Bunting	24 hrs.
Mr. C. J. Fazzie	11 hrs., later 24 hrs.
Mrs. Mitta Goeiman	Not publicly stated
Mr. M. A. Harmel	24 hrs.
Mr. P. J. Hodgson	24 hrs.
Mrs. Rica Hodgson	13 hrs.
Mr. N. I. Honono	13 hrs.
Mrs. Helen Joseph	12 hrs.
Mr. A. M. Kathrada	13 hrs.
Mr. Moses Kotane	24 hrs.
Mr. Alex la Guma	24 hrs.
Mr. M. Lekoto	12 hrs.
Mr. Douglas Manquina	Not publicly stated
Mr. J. J. Marks	12 hrs.
Mr. I. D. Maseko	24 hrs.
Mr. Joe Morolong	24 hrs.
Mr. T. T. Nkobi	24 hrs.
Mr. Duma Nokwe	12 hrs.
Mr. Alfred Nzo	24 hrs.
Mr. Walter Sisulu	12 hrs., later 24 hrs.
Mr. J. D. Tarshish	13 hrs.
Mr. C. G. Williams	12½ hrs.

(In all cases the persons concerned were ordered to remain at home over the week-ends and on public holidays.)

At the time of writing 11 of these 24 people had fled from South Africa, 2 had left under exit permits, 2 were on bail pending appeals against sentences for minor infringements of their orders, 2 were serving prison sentences, and 4 had been arrested.

The Minister of Justice said during January 1963[7] that the relevant legislation did not provide for persons placed under house arrest to be given the opportunity of refuting information on which he had relied before exercising his powers.

(6) Pages 48, 51, 239.
(7) Assembly, 22 January, Hansard 1 col. 17.

On 19 December 1962 Mr. P. J. Hodgson applied to the Rand Supreme Court for the setting aside of the 24 hour arrest order which confined him to his small flat. His application succeeded. Mr. Justice Trollip said that in his opinion a "place" to which a person could be confined meant a unit of space more extensive than or different from a person's residence, dwelling or house. He had difficulty in understanding why, if the legislature had intended that a person could be confined to his house, with all the severe consequences, it did not say so explicitly. When a statute was *reasonably* capable of more than one meaning a court of law would give it the meaning which least interfered with the liberty of the individual. The prohibitions against Mr. Hodgson communicating with other people and receiving visitors were valid only while the main prohibition was in force, thus these, too, must be set aside.[8]

This judgment was given on 27 February 1963. The Minister of Justice at once noted an appeal to a Full Bench, which was heard on 28 March. Meanwhile some other persons under house arrest in Johannesburg assumed that they could ignore their orders. Mr. Nokwe and Mr. Kotane left the country. Legal opinion in Cape Town and Durban was that the ruling did not apply in areas outside the jurisdiction of the Rand Supreme Court.

The State succeeded in its appeal. Mr. Hodgson was granted leave to appeal to the Appellate Division, but decided not to proceed further when the General Law Amendment Bill of 1963 was introduced, for this contained a much wider definition of "place", which was made retrospective.

Mr. Harmel, Mr. and Mrs. Hodgson, and Mr. Nkobi then fled from South Africa.

WARNINGS OF HOUSE ARREST

At the time of writing at least nine people had been warned that they might be served with orders of house arrest unless they abandoned their political activities.

TRIALS OF CERTAIN AFRICAN LEADERS

After the demonstration against the pass laws, organized by the P.A.C. in March 1960, Mr. Robert Sobukwe, President of the P.A.C., was sentenced to three years' imprisonment for inciting others to support a campaign for the repeal of these laws. His sentence expired on 3 May 1963.

Two days previously the General Law Amendment Act of 1963 became law: as has been stated above one of its provisions enabled the Minister of Justice to order the continued detention of persons who have completed sentences of imprisonment for certain offences in cases where the Minister is satisfied that these persons, if released, are likely to further the achievement of any of the statutory objects of communism.

After he had served his sentence Mr. Sobukwe was removed to Robben Island, about three miles out from Cape Town, for further detention. The Minister announced[9] that he would not be treated as an ordinary prisoner. He would have special food and quarters, more leisure, and freedom of movement within a prescribed area. Newspapers could be supplied to him and he could receive visitors weekly.

Mr. Nelson Mandela, who led the committee that planned demonstrations for the end of May 1961, evaded the police for sixteen months after a warrant had been issued for his arrest. He was eventually discovered and arrested in August 1962, and in November was sentenced to five years' imprisonment for incitement and for having left the country illegally during the period when he was in hiding. As is described in a subsequent chapter, further charges were laid against him later.

Mr. Duma Nokwe, a former Secretary-General of the A.N.C., was arrested in January 1963 on a charge under the Unlawful Organizations Act: it was alleged[10] that a document was found in his possession which urged that the A.N.C. should depart from its policy of non-violence. He was granted bail, and fled from South Africa before his case was heard.

Mr. Walter M. Sisulu, another former Secretary-General of the A.N.C., was sentenced to six years' imprisonment in March 1963 for continuing to further the aims of this organization after it had been banned and for inciting people to join in the "stay-at-home" demonstration at the end of May 1961. He applied for bail pending an appeal against this judgment; but the magistrate refused the application on the ground that other African politicians had fled the country while on bail. Four days later, however, a Supreme Court judge set aside this decision on the ground that according to a 1955 judgment a magistrate had no option but to grant bail pending appeal: his discretion lay only in fixing the amount to be paid.[11] The magistrate concerned then granted Mr. Sisulu bail of R6,000, which was immediately paid.

Mr. Sisulu had previously been served with a 12-hour house arrest order: on 3 April 1963 he was placed under 24-hour house arrest and was forbidden to communicate in any way with anyone except members of his family living in his home at Orlando. On 20 April he disappeared: the underground A.N.C. stated in a document sent to the Press[12] that he would remain in South Africa in hiding to continue his leadership of the organization.

His wife and 17-year-old son were temporarily detained from 20 June under the 90-day detention clause of the General Law

(8) *Star* report, 27 February.

(9) *Rand Daily Mail*, 2 May.
(10) *Star* report, 11 January.
(11) As is described in an earlier chapter, the law was subsequently changed.
(12) *Sunday Times*, 21 April.

Amendment Act of 1963. Four younger children were left for some weeks, with no source of income, in the care of a 14-year-old niece.

It was reported a week later[13] that Mr. Sisulu's voice had been heard in a pirate broadcast from a station announced to be "Freedom Radio, the broadcasting service of the A.N.C.".

Then, as will be described later, on 11 July the police found Mr. Sisulu at the home of Mr. Arthur Goldreich in Johannesburg and arrested him.

ACTION AGAINST POQO

RAID ON POQO IN BASUTOLAND

On 1 April 1963 the Basutoland police raided the P.A.C. office in Maseru and Mr. Leballo's home. A Government spokesman in Maseru is reported[14] to have said that there had been no consultation with the South African authorities in regard to this raid. It was made because the police had received information that Mr. Leballo might be in possession of arms and ammunition and would, if this were the case, be contravening the laws of the territory. Press reports state that 50 rounds of small arms ammunition were found.

It appears that Mr. Leballo saw the police surrounding his office as he approached it, and fled. A warrant was subsequently issued for his arrest on an allegation of incitement to public violence in Basutoland. Eleven men were detained for a few days for questioning: two of them were subsequently charged with obstructing the police. They were apparently ex-P.A.C. leaders who had fled from South Africa. Among the men detained were Elias Ntloedibe, Z. P. Molete, and Elliot Mfaxa.

Large numbers of documents were seized, including correspondence with P.A.C. members in South Africa and overseas and the list of P.A.C. members mentioned earlier. Basutoland Government officials said there was no intention whatsoever of handing the detained men or the documents to the South African authorities: the South African Minister of Justice confirmed later that no list of Poqo members had been supplied,[15] and the British Minister of State for the Colonies said in the House of Lords that no P.A.C. members had been sent back to South Africa.[16]

It was rumoured during April[17] that during the Easter weekend (13-15 April) a band of 21 young Poqo members had left Johannesburg for Basutoland with the intention of hunting down Mr. Leballo, who they felt had dealt a devastating blow to the organization by making boastful Press statements announcing the

(13) *Star*, 27 June.
(14) *Rand Daily Mail*, 3 and 4 April, and *Star*, 2 April.
(15) Assembly, 24 April, Hansard 13 col. 4646.
(16) *Star*, 26 April.
(17) *Sunday Times*, 21 April.

plans of Poqo. Further rumours were that Mr. Leballo had been kidnapped and murdered. Nothing was heard of his whereabouts until 12 September, after the warrant for his arrest had been withdrawn. He then reappeared in Maseru.[18]

Elias Ntloedibe was declared a prohibited immigrant in Basutoland, and left for Bechuanaland. (He is not of Sotho extraction.)

ARREST OF WOMEN CARRYING LETTERS FROM MR. LEBALLO

On 29 March the local police arrested two young African women who had just crossed the border into South Africa from Basutoland. Miss Cynthia Lichaba, who admitted that she had been Mr. Leballo's book-keeper in Maseru, was found to be in possession of about 70 letters from Mr. Leballo to Poqo members in South Africa, which she had intended posting in South Africa itself. It was stated in evidence at subsequent court cases[19] that Mr. Leballo and the members concerned used false names and code words. "The forces of darkness", for example, meant the police, a "dance association", meant a P.A.C. branch, a "jive session" meant a small war, and a "guitar" meant a knife.

Miss Patricia Lethala said she had worked in Maseru for a school principal who was an associate of Mr. Leballo. She had been instructed to hand various documents to a man she would meet in Ladybrand, the nearest South African town.

Both women were found guilty of being members of an unlawful organization and of furthering its aims. Each was sentenced to 18 months' imprisonment.

INTENSIFICATION OF ACTION AGAINST POQO

After the documents had been seized from these women, and when the General Law Amendment Act became law on 1 May 1963, widespread action was taken by the police. Hundreds of Poqo suspects were arrested on specific charges, or were held under the new 90-day detention clause. Their trials are described below.

On 10 May a proclamation was gazetted under the new Act stating that the President was of the opinion that an organization called Poqo had been in existence after 7 April 1960, one called the Dance Association had been in existence after 31 December 1962, and both still existed. The President was satisfied that both bodies were in fact the P.A.C. at all times since they came into existence and so declared them. In terms of an earlier proclamation the P.A.C. had been an unlawful organization since 8 April 1960.

Subsequently, on 12 July, a similar proclamation equated the S.A.A. Football League and the Football Club with the P.A.C.

(18) *Star*, 12 September.
(19) *Rand Daily Mail*, 28 May and 19 July.

The Minister issued a statement to the effect that these were not genuine sporting bodies.[20]

On 12 June the Minister of Justice said[21] he could give the assurance that Poqo had been smashed. It might try to stage a come-back, but would not be wise to attempt this.

BANNING OF OTHER ORGANIZATIONS

The Congress of Democrats had been banned earlier, on 14 September 1962.[22]

On 10 May 1963[23] the President declared he was satisfied that *Umkonto we Sizwe* and the Spear of the Nation were in fact the banned A.N.C. at all times since they came into existence.

NINETY-DAY ARRESTS

NUMBERS DETAINED

The General Law Amendment Act of 1963 became law on 1 May 1963. Eight days later the police began a series of arrests. For a time they refused information about the persons detained; but on 7 November 1963 the Minister of Justice said[24] that 544 persons had by then been held without trial.

Of 265 whose names were made public 4 were persons under house arrest, 9 more were listed communists, 8 not included under the preceding categories were charged with treason in 1957, and 12 others were under various types of banning orders. All the rest were persons against whom no political action had previously been taken.

The Minister said that 151 detainees had been released by 7 November after having, in terms of the Act, made satisfactory statements; 275 had appeared before the courts, five had escaped, one had died, 61 were to be charged, and 51 were still being interrogated.

Slightly different information was given by the Commissioner of Police in a Press Statement on 14 November: he said that 523 persons had been arrested of whom 162 had been released, 305 charged in court, and 56 were still being held.

A matter that gave rise to concern was that at least 18 people were immediately re-arrested at the termination of their first period of 90-days' detention, and 7 of them, including 6 members of the S.A. Congress of Trade Unions, were re-arrested after having been detained for 180 days. One man was re-imprisoned after an interval of several weeks. Another was arrested in June, and formally charged with sabotage on 9 September. On 2 November

(20) *Ibid.* 12 July.
(21) Asembly Hansard 20 of 1963, col. 7765.
(22) Proclamation 218 of 1962.
(23) Proclamations 93 and 94 of 1963.
(24) *Rand Daily Mail*, 8 November.

this charge was withdrawn but he was then re-arrested as a 90-day detainee.

Sir de Villiers Graaff urged the Minister of Justice to give his personal attention to the case of Mr. Loza, the first man to be held for a third term; but the Minister replied that if a detainee refused to give information to the police they had no option but to re-arrest him.[25] A few days later, however, Mr. Loza was charged under the Suppression of Communism Act.

CONDITIONS OF DETENTION

According to various reports[26] some detainees were kept in solitary confinement and allowed only one hour's exercise a day, during which no talking was allowed. Some mention was made of black-painted cells; but Mrs. Helen Suzman, M.P., who visited the Pretoria Central Gaol, said that the cells in which detainees were kept there had light grey walls, measured about 15ft. by 8ft., and had high, wired fanlights which let in a good amount of light. Each had a sealed sanitary pail, a wooden table and chair, and a bedding roll with blankets on a cement floor.

Many detainees were denied any books other than a Bible, and most were refused writing materials. (Two or three were allowed to continue studying for examinations.) They were given the diet of awaiting-trial prisoners, and might have one meal a day sent from outside. There were some rumours of physical ill-treatment of Non-White detainees, for example the application of electric shocks.

The Minister assured Mrs. Suzman that if cases of physical ill-treatment were brought to his notice he would investigate them immediately. He had already instituted one enquiry, he said.

Mrs Suzman reported that she had pointed out that solitary confinement for 90 days was far in excess of the 30 days allowed by the Geneva Convention for prisoners of war, and suggested that this could be more severe than physical punishment. The Minister replied that it would defeat the object of the 90-day clause if detainees shared cells. Some of them had been allowed visitors. If any of them were to show signs of being mentally affected by their detention a doctor would be called in by the prison authorities, who were experienced men, or by the magistrate after his weekly visit, the Minister said.

A former Chief Justice, Senator H. A. Fagan (United Party), said in a Press interview on 6 November that the threat of being held incommunicado for an indefinite period was to his mind a form of mental torture which should be as abhorrent as third-degree methods.

(25) *Ibid.* 7 November.
(26) Numerous Press reports: Defence and Aid Fund circular letter dated 16 August; Information given by Mrs. Helen Suzman, M.P. after an interview with the Minister and a visit to the Pretoria Central Gaol, *Rand Daily Mail*, 1 November.

Furthermore, he said, one read of the wives of banned or arrested people being held. "Must we be left to assume that this is done in the expectation of their making disclosures implicating their husbands, although the principle of compelling one spouse to give evidence against the other is foreign to our law?" he asked.

Only closest relatives were told where the detainees were being held, and even they were not always informed promptly when the men were moved from one place of detention to another.

The Minister of Social Welfare and Pensions said in June[27] that no special provision for the dependants of detainees was considered necessary. Those in needy circumstances could apply for public assistance, under existing schemes, through social welfare officers, magistrates, or Bantu Affairs officials.

Numbers of the Africans who were detained were dismissed by their employers.

A test case was instituted in October 1963, when the lawyer who had general power of attorney for Mr. A. L. Sachs asked for a court order declaring that the police were not entitled to deprive Mr. Sachs of any of his rights and liberties except to detain him for questioning and to prevent him from having access to other people. In other respects he should be allowed the rights of awaiting-trial prisoners, it was claimed, such as adequate reading and writing materials.

The judge ruled that the section of the Act governing Mr. Sach's detention did not, either expressly or by implication, deprive him of the rights to have a reasonable supply of books and writing material and to be given reasonable periods of exercise daily. An appeal against this judgment was immediately noted by the State.

During November Mr. J. Hamilton Russell, former M.P. for Wynberg, stated that he had evidence of forms of torture to which significant numbers of detainees had been subjected. The Acting Divisional Commissioner of Police for the Western Cape denied that third-degree measures were being used, but suggested that if Mr. Russell had evidence of this he should lay it before the police, when the allegations would be investigated.

Mr. Russell refused to do this, however, unless the ex-detainees concerned were indemnified against further detention as a result of their disclosures. The Attorney-General, the only person who could grant indemnity, said that before making any decision he would have to consider the evidence and the circumstances of each case.

NOTES ON SOME DETAINEES

Two of the detainees, Messrs. Wolf Kodesh and Leon Levy, were given permanent exit permits and escorted by the police to transport leaving for overseas. Two British subjects who later admitted that they had helped an African to escape to Bechuanaland were sent back home: they were Miss Bridget Mellor and Mr. Eric Stone.

(27) Assembly, 18 June, Hansard 21 col. 8117.

Four detainees escaped from cells in Johannesburg: this escape is described later. The trials of those who were charged in court are mentioned below.

Mr. Looksmart Solwandle Ngudle, who was detained on 19 August, was found hanged in his cell on 5 September. When the inquest opened on 21 October Dr. G. Lowen, Counsel for the widow, asked for a postponement because the relatives wanted time to undertake certain interviews and to obtain medico-legal advice.

Counsel for the State is reported to have said that Mr. Ngudle had been interrogated on a number of occasions, and it had been made clear to him that he was to be brought to trial and what the consequences might be. On the day before his death he gave information to the police that led to other arrests. He apparently then realized that he faced death either by the proper processes of the law or at the hands of his previous associates.

Dr. Lowen submitted that this statement should not have been made, since Mr. Ngudle had not even been charged, let alone found guilty. He said that an advocate who had seen another prisoner was informed that Mr. Ngudle had not committed suicide but had died as the result of torture.

An adjournment was granted. On 25 October the Government banned Mr. Ngudle from attending meetings, which presumably meant that statements made by him during his lifetime could not be quoted except in a court of law or with the Minister's permission.

At the resumed inquest on 31 October Dr. Lowen withdrew from the proceedings. An inquest by a magistrate was not a court, he said, thus he or his witnesses would have no protection if they quoted statements that had at any time been made by Mr. Ngudle. Some of this evidence would have shocked the magistrate. The District Surgeon, who performed the post-mortem, said he was sure that Mr. Ngudle had hanged himself. He found no other injuries. The inquest was then adjourned.

Next day the Department of Justice authorized the production of statements by banned persons at inquest proceedings provided that a platform was not thereby given for the expression of such persons' views.

It was reported on 18 November that two African detainees in the Western Cape, Messrs. T. Tsotso and M. Msingizane, had showed signs of mental derangement, that the district surgeon was summoned, and that after consultation with another doctor he applied for them to be admitted to a mental hospital for observation.

TRIALS

DETENTION WITHOUT TRIAL IN THE TRANSKEI

Many persons have been detained under Proclamations 400 and 413, which enable a Bantu Affairs Commissioner or Commissioned Officer or N.C.O. of the police to arrest without warrant any person in the Transkei suspected of having committed or of intending to commit an offence under the Proclamation or any law, and any persons considered to be in possession of information relating to an offence. Such persons may be held in custody until it is considered that they have fully and truthfully answered all relevant questions put to them, and may meanwhile not consult with a legal adviser unless with the Minister's consent.

The Minister of Justice said in June 1963[1] that 176 persons were then in detention, having been held for varying periods from 7 February 1963 on. One of the men concerned had been detained for five months on a previous occasion.

NUMBERS ARRESTED AND CONVICTED FOR SABOTAGE OR P.A.C. OR A.N.C. ACTIVITIES

On 12 June the Minister announced[2] that by then 3,246 Poqo members had been arrested. Of these, 124 had been found guilty of murder, 77 were awaiting trial on this charge, and 17 were charged with attempted murder; 126 had been convicted of sabotage and 511 similar cases were pending; action had been taken against 670 people for furthering the aims of a banned organization, and many other charges had still to be heard.

No detailed information has been released from official sources. In the tables that follow a summary has been made of the results of cases reported in the local Press from the time that the trials for sabotage and Poqo activities began until 3 December 1963: it has been impracticable to check these against court records in numerous widely dispersed centres. Events that gave rise to these trials have in many instances been described in previous chapters. The figures do not include trials of African leaders like Mr. Mandela, nor convictions for contravening banning orders, nor the trials of those who fled the country while awaiting the outcome of appeals.

(1) Assembly, 25 June, Hansard 22 cols. 8711-2.
(2) Assembly, 12 June, Hansard 20 col. 7771.

1. **Murder, sabotage, etc.**	
Death sentences	46
Imprisonment for the rest of their natural lives	3
Life imprisonment	3
20-25 years	31
15-19 years	51
10-14 years	53
Up to 10 years	63
Length of sentence not reported	17
2. **Illegal meetings**	
1-3 years	32
3. **Furthering the aims of the P.A.C. or A.N.C.**	
8 years	1
5-7 years	82
Up to 5 years	260
4. **Total convictions**	
(with the exceptions noted above)	642
5. **Acquitted or discharged**	303

These figures are obviously incomplete. The Defence and Aid Fund in Cape Town intimated on 30 September 1963 that since the beginning of the year its office alone had assisted 537 cases which were concerned mainly with Poqo activities in the Western Cape. Of the 537 persons, 213 had been sentenced to imprisonment, 89 had been fined or were awaiting trial, and 235 had been discharged or found not guilty.

In numbers of cases appeals are pending, and various other trials were in progress at the time of writing. The Defence and Aid Fund reports that lawyers found it difficult to establish the nature of charges and to communicate with the arrested men, often because they were moved about from one gaol to another, groups being split up. After months of delay men were suddenly brought to trial, defending lawyers not receiving timeous notice of trial date and charges. In many cases charges were dropped, or men found not guilty, after the accused had spent four months or more in gaol. Some innocent Africans so released found that they had lost their jobs and were "endorsed out" of the area. Some other people who were acquitted were immediately re-arrested under the 90-day clause.

TRIALS FOR LEAVING THE COUNTRY ILLEGALLY

About 100 people—possibly more—have been arrested for having left the country illegally or for having attempted to do so. Some of them were apprehended in the Federation and handed over to the South African authorities at Beit Bridge.

It appears that at the time of writing not all of these people had yet appeared before the courts. Forty of them, arrested in South Africa or in the Federation just after they had crossed the

border, received sentences of two to three years. Seven others were sentenced to 20 years' imprisonment each: it was stated that they had undergone sabotage training at Da-bra-Zid in Ethiopia to further the objects of the A.N.C.

(These convictions are not included in the totals given above.)

NO AUTOMATIC REMISSION OF SENTENCES FOR POLITICAL PRISONERS

The Minister of Justice announced in February[3] that certain groups of persons were excluded from automatic remission of sentences; these included prisoners who had failed to conform to discipline, or had been recaptured after escaping from custody, or had been convicted of offences under the Suppression of Communism Act, the Public Safety Act, the Riotous Assemblies Act, the General Law Amendment Act of 1962, or proclamations issued in terms of these Acts.

TRIAL OF DR. BLAXALL

The Rev. Dr. A. W. Blaxall was charged on four counts under the Suppression of Communism Act: of taking part in or aiding the activities of the P.A.C. and A.N.C. and of being in possession of three copies of *New Age* and a copy of *Fighting Talk*. He pleaded guilty. The prosecutor produced proof that he had administered funds for the P.A.C. and had been in correspondence with African leaders who were outside the country.

During October 1963 he was found guilty on all four counts. The magistrate said that a light sentence would be imposed in view of Dr. Blaxall's age and physical condition and of his long efforts to bring about peace. He was sentenced to two years' four months' imprisonment, all but six months suspended for three years on condition that he did not meanwhile contravene the terms of the Suppression of Communism, Unlawful Organizations or Riotous Assemblies Acts or commit treason.

A specialist thoracic surgeon had said in court that if Dr. Blaxall were forced to serve a prison sentence of more than a few days there would be a strong possibility of fatal physical effects.

After he had been one day in gaol the Minister of Defence ordered his release on parole, the condition of parole being that he should not be found guilty of any criminal offence.

RIVONIA ARRESTS

On 11 July 1963 the police raided the home of Mr. Arthur Goldreich at Rivonia outside Johannesburg and arrested 17 persons, initially under the 90-day clause.

One of them was the A.N.C. leader Mr. Walter Sisulu who, as described elsewhere, was under a 24-hour house arrest order

(3) Assembly, 12 February, Hansard 4 col. 1168.

and on bail awaiting an appeal against a six-year sentence for incitement and continuing to be a member of a banned organization. He had been in hiding since 20 April.

Another was the Indian Congress leader Mr. A. M. Kathrada, a listed communist who was under a 13-hour house arrest order, and under a suspended sentence for having left Johannesburg without permission. He had been instructed to report to the police daily but had been in hiding since May.

Two other well-known political figures and listed communists were included: Mr. L. G. Bernstein of the Congress of Democrats, and Mr. Govan Mbeke of the A.N.C. Both were under various banning orders and Mr. Bernstein was also under 12-hour house arrest.

The rest had not previously figured in political trials or bannings: they were Mr. and Mrs. Arthur Goldreich, Dr. H. Festenstein, Mr. Dennis Goldberg, Mr. Bob Hepple, and eight others.

The Minister of Justice is reported[4] to have said that these arrests were a direct result of information received from people held under the 90-day clause.

Mr. Vivian Ezra, who is said to have been the director of the company which owned the house where Mr. Goldreich lived, fled from South Africa.

Mr. Goldreich, officially described as the leading figure in these arrests, escaped from the police cells in Johannesburg on 12 August in the company of Messrs. Harold Wolpe, A. Jassat, and Mosie Moolla. An account of their escape is given later.

The home of Mr. and Mrs. Leon Kreel at Mountain View, Johannesburg, was raided in mid-September. It was reported that they were suspected of having sheltered Mr. Goldreich and Mr. Wolpe and were to be charged with this.

OPENING OF TRIAL OF ALLEGED LEADERS OF THE SPEAR OF THE NATION

On 9 October 1963 eleven men appeared in court in Pretoria on charges of sabotage: most of them had been arrested when the police raided the home of Mr. Arthur Goldreich. It was alleged that seven of them—Messrs. Nelson Mandela, Walter Sisulu, Dennis Goldberg, Govan Mbeke, Ahmed M. Kathrada, Lionel Bernstein, and Raymond Mahlaba—constituted the High Command, the national executive committee of the National Liberation Movement and the *Umkonto we Sizwe* (Spear of the Nation). With them were Messrs. James Kantor, Elias Matsoaledi, Andrew Mlangeni, and Bob Hepple. The seven were listed separately and as members of an association under the Criminal Procedure Act. Mr. Kantor was listed both in his personal capacity and as a partner with Mr. Harold Wolpe in a legal firm.

(4) *Rand Daily Mail*, 20 July.

They were alleged to have acted in concert with Messrs. Vivian Ezra, Julius First, Arthur J. Goldreich, James J. Habede, Michael Harmel, Percy Hodgson, Ronald Kasrils, Moses Kotane, Arthur Letele, Tennyson Makiwane, John J. Marks, Johannes Modise, George Naicker, Billy Nair, Looksmart S. Ngudle, P. D. Nokwe, Robert Resha, Joe Slovo, Harold Strachan, Oliver Tambo, Ben Turok, Cecil Williams, and Harold Wolpe, and with the Communist Party of South Africa and the A.N.C. (As is described elsewhere in this *Survey*, three of these men were under arrest or serving prison sentences, one had died, and the rest had left the country).

It was alleged in the charge sheet that the accused had conspired with these others in planning a course of conduct during which 199 acts of sabotage were committed in preparation for guerilla warfare in the country and an armed invasion from outside. (The original charge-sheet stated that there had been 222 acts of sabotage.)

The accused asked for a postponement provisionally until 11 November to enable them to prepare their defence; but the judge granted them a period of three weeks—until 29 October.

Counsel for the defence said that for 88 days the accused had been in solitary confinement except for one hour a day during which exercise was allowed. They had not been permitted to talk to anyone except the magistrate and prison officials, and had been subjected to threats. As a result, they were not in a fit state to appear in court. Counsel for the State said that the men would now be treated as ordinary awaiting-trial prisoners and would be able to consult freely with their legal advisers.

When the resumed trial opened before the Judge-President, Mr. Justice de Wet, Mr. A. Fischer, Counsel for nine of the accused men, applied for the indictment to be quashed. The Defence had asked for further particulars to the charges, he said. The alleged acts of sabotage were listed in the further particulars supplied, and the amounts of explosives that the men were alleged to have possessed were stated; but in reply to questions about the manner in which the conspiracy had been formed, the way in which each accused was a member of it, and related matters, Counsel for the State had either furnished no reply or had stated, in effect, that the particulars applied for were either matters of evidence or matters which were within the knowledge of the accused. This pre-supposed that they were guilty. Furthermore, Mr. Fischer said, 156 of the 199 alleged acts of violence were stated to have been committed during a period when Mr. Nelson Mandela, one of the accused, was in gaol.

The Judge-President granted the application for the quashing of the indictment. It was most improper, he said, for the State to have replied that certain matters were within the knowledge of the accused and that, therefore, no further particulars need be

supplied. The information asked for should be supplied: the accused must know the case they had to meet.

Dr. Yutar, the Deputy Attorney-General, offered to hand in his opening address, which, he said, gave the case against each accused, and, within a week, to furnish a summary of the 250 documents he proposed using and of the evidence to be led; but the Judge-President refused to reverse his ruling.

Mr. Bob Hepple was discharged: Dr. Yutar announced that he would appear later as a State witness. However, he and his wife fled from South Africa shortly afterwards.

The rest of the accused were re-arrested and reverted to the status of 90-day detainees while the State redrafted the indictment.

Under the new indictment the ten accused were charged as individuals—reference to an association and to the legal firm was omitted. It was alleged that they had solicited money and recruited people for training with the object of causing a violent revolution in South Africa and assisting units of foreign countries if these should invade the Republic. As a result of their activities 193 acts of sabotage had been committed.

The particulars supplied by the State listed 122 "agents" said to have carried out the acts of sabotage, and 47 men known to the State among 200 to 300 recruited for training for sabotage and guerilla warfare.

An application by the defence for the second indictment to be quashed was dismissed.

CONTROL OF MEETINGS

The increased powers to prohibit gatherings which were granted to the Minister of Justice in 1962 were described in last year's *Survey*.[5] In terms of these powers he banned the holding of any public gatherings except bona fide religious services on the Grand Parade in Cape Town and on the City Hall steps and the immediately surrounding area in Johannesburg. Magistrates may grant special exemption; and bona fide trading may continue on the Grand Parade.

CONTROL OF ENTRY TO CERTAIN AFRICAN AREAS

Control has been reimposed over the entry to certain African areas: Sekhukhuneland, the Peddie area, Matlala's and Molietzie's locations near Pietersburg, and 68 African-occupied farms in the Northern Transvaal.[6]

(5) Page 36.
(6) See 1962 *Survey*, page 16, for a summary of the Government's powers in this regard.

COLOURED PEOPLE LIVING IN AFRICAN RESERVES

The future of Coloured people living in African reserves has given cause for concern. The position of those in the Transkei is dealt with in an earlier chapter; but there are considerable numbers of Coloured peasant families living in African areas in the Kuruman District and elsewhere. There has, so far, been no official statement as to their future.

OTHER COLOURED AND ASIAN AFFAIRS

COLOURED AND ASIAN MUNICIPAL VOTE

LOCAL GOVERNING BODIES IN COLOURED AND ASIAN GROUP AREAS

As described in last year's *Survey*[1] a 1962 amendment to the Group Areas Act empowered the Minister of Community Development after consultation with the Administrator of the Province concerned to establish consultative or management committees in any Indian or Coloured group area, or areas. (Until this amendment, the Minister had to act with the concurrence of the Administrator.)

During the Parliamentary debate Opposition members contended that these provisions were a breach of the powers of provincial councils since, under the Constitution, provincial councils were empowered, with the State President's consent, to make ordinances dealing with municipal institutions, and Parliament could not abolish or abridge these powers except by petition of the Council concerned. However, the Speaker of the House of Assembly and the President of the Senate both ruled that Parliament was the sovereign legislative authority and that provincial councils did not possess the exclusive right to legislate in regard to municipal institutions.

Whatever the legal position, the Government has proceeded by asking the four provinces to introduce provincial ordinances.

In September 1962 the Minister attended a conference of Administrators on the subject. In February he reported that three of the four provinces were proceeding actively, but that no progress had been made in Natal.

The position in Natal, and the steps that have been taken by the other provinces in implementing the system, are described below.

Natal

A letter[2] from the Administrator to the Minister in January stated that draft legislation framed by the Government was being investigated by the Province, but that it appeared that due to legal and practical difficulties the aims of the Government would not be achieved in Natal by the legislation. A special committee had

(1) Page 122 *et seq.*
(2) Assembly, 5 February, Hansard 3 cols. 746 *et seq.*

been appointed to investigate the matter further. Commenting in the Assembly, the Minister[3] said that "if this unsatisfactory state of affairs continues, the steps to proceed with the matter in Natal can no longer be left with the provincial authorities". The Administrator announced[4] in September that a draft ordinance had been framed and had been sent to the Ministry of Community Development. It envisaged two main phases in the establishment of Non-White local authorities, i.e. local affairs committees and separate Non-White local authorities "as against mere committees". In the first phase much could be done to train responsible Non-Whites in local government, but the establishment of Non-White local authorities (the second phase) would of necessity take time.

Cape Province

The Cape Ordinance in this connection (No. 6/1963) was passed early in the year. A report[5] in October stated that the Administrator of the Cape had asked the Cape Town City Council's general purposes committee to consider the early formation of management committees for Coloured people in the areas of Athlone-Duinefontein, Kensington and Wittebome-Wynberg. No details are yet known.

Orange Free State

A draft Ordinance and regulations have been prepared by the Orange Free State Provincial Council, but have not yet been passed. The first group areas proclamations for the Orange Free State were not made until 1963.

Transvaal

A provincial ordinance was passed by the Transvaal in December 1962 (No. 22/1962). In May the Administrator announced that five Non-White committees had been approved by the Transvaal Provincial Executive, and that other committees would thereafter be set up. The committees approved were:

(1) a management committee for Coloured people in the five proclaimed Coloured group areas in the west of Johannesburg (i.e. Bosmont, Coronationville, Western Township, Newclare, Riverlea);
(2) a consultative committee for Indians at Lenasia (outside the municipal area of Johannesburg);
(3) a consultative committee for Coloured people at Eersterus, Pretoria;
(4) a consultative committee for Indian people at Laudium, Pretoria;

(3) *Ibid.*
(4) *Natal Mercury*, 13 September.
(5) *Report from South Africa*, October.

(5) a consultative committee for Coloured people at Alabama, Klerksdorp.

The Johannesburg City Council, in considering the application of the system to Coloured areas in Johannesburg, studied a set of suggested regulations framed by the Director of Local Government of the Province, and introduced a number of modifications "to suit the requirements of Coloureds living in the municipal area . . .".[6] It decided, after discussion, that there should be one committee for all five proclaimed Coloured group areas in the city (Noordgesig is not a proclaimed area) and that it should be a management committee from the outset. It would, however, continue to recognize local residents' associations in various areas, as it had done in the past, but these would not form part of the new system. The Coloured management committee would be set up within a year from September 1963 and would initially consist of 5 appointed members (2 nominated by the Minister, 2 by the Province and 1 by the City Council). Succeeding committees which would hold office for one year would consist of 15 persons (12 elected by the Coloured community and 1 nominee each of the Government, the Province and the City Council). Voters would be persons over 21 years of age owning or occupying property of a certain value. Neither the City Council nor any of its committees would decide on any matter relating to the Coloured community specified in the regulations without first considering the committee's recommendations. Regulations giving effect to the above have been approved by the City Council and forwarded to the Province for ratification, but at the time of writing in November had not yet been promulgated.

Information concerning the implementation of the system in other areas of the Transvaal is not at present available, with the exception of Klerksdorp where it was reported[7] that the committee for Alabama was to be inaugurated on 15 October.

PRESENT COLOURED MUNICIPAL VOTE

As mentioned in last year's *Survey*,[8] the Minister said in the Assembly that the rights of Coloured persons who were already registered as municipal voters at the date when a management committee was established would not be affected so long as they retained their qualifications but that the expansion of Coloured and Asian municipal franchise rights would have to be limited to their own group areas.

Non-white candidates fared unexpectedly well in the municipal elections in Cape Town and Paarl in September. There are now 7 Non-White members of the Cape Town City Council compared with 6 on the previous council, the highest number of Non-White

(6) *Rand Daily Mail*, 18 September.
(7) *Star*, 4 October.
(8) Page 123.

councillors in Cape Town's history.[9] In Paarl, the 2 Non-White candidates were defeated but they polled more votes than had been expected and it was believed that a number of White citizens voted for the Non-White candidates.[10]

No new Coloured municipal voters have been able to register in Natal since the Separate Representation of Voters Act came into force in May 1956 because the relevant provincial ordinance provides that all municipal voters must be either registered as Parliamentary voters or entitled to be so registered.

(9) *Sunday Times*, 8 September.
(10) *Ibid.*

INDIAN AFFAIRS

DEPARTMENT OF INDIAN AFFAIRS

As described in previous issues of the *Survey*,[1] the Department of Indian Affairs was created in 1961. The Minister of Indian Affairs, Mr. W. A. Maree, outlined in the Assembly in May[2] some of the main functions of the Department, which was created for the promotion of the interests and the provision of the needs of the Indian community. The Department administered a number of laws specially affecting the Indian community including those relating to immigration, inter-provincial movement, poor relief, registration of births, marriages and deaths, etc.

As from 1 April 1963 the Department had taken over the control and administration of the University College for Indians in Durban; the M. L. Sultan Technical College in Durban with branches in Pietermaritzburg and Stanger; and in terms of the provisions of the Special Education Act No. 9/1948, the administration of the Arthur Blaxall School for the Blind in Durban.

(As mentioned elsewhere,[3] the Minister stated in February that his Department had at present no intention of taking over Indian education from the provinces. It had merely taken over from the Department of Education, Arts and Science those institutions for higher education which the latter Department previously controlled. He later expressed[4] himself as personally in favour of the transfer of Indian education from the provinces to the Central Government.)

All passports and travel documents for Indians were now issued by his Department by virtue of powers delegated by the Department of the Interior, the Minister said. As from 1 April welfare services and pensions for Indians were transferred to the Department of Indian Affairs, including all types of social pensions, poor relief, old aged homes, welfare subsidies, etc. The Minister also listed a number of commissions, committees and boards on which the Department was represented and with which it maintained liaison.

In a debate[5] on the previous day, the Minister had emphasised "that it is not my function and the function of my Department to lay down policy in respect of the Group Areas Act, nor is it our function to determine the policy in respect of job reservation. My

(1) 1961, page 142; 1962, page 120.
(2) Assembly, 21 May, Hansard 17 cols. 6419 *et seq.*
(3) See chapter on Education.
(4) Assembly, 20 May, Hansard 17 col. 6393.
(5) Col. 6376.

Department is simply the link through which the Indians can make representations to those Departments".

The staff of the Department on 1 April was 120 Whites and 52 Indians, plus a number of persons seconded from the Department of Social Welfare.

PROPOSED INDIAN AFFAIRS COUNCIL

An important change in Government policy concerning Indians was described in last year's *Survey*[6] when the Minister of Indian Affairs announced that as the repatriation scheme had failed, the Government had no alternative but to regard Indians as permanent inhabitants of the Republic.

As also stated in previous *Surveys*[7] the Government hopes to set up a central consultative council representing different interest groups among the Indian community which would gradually take over from the Department of Indian Affairs responsibility for certain matters. Spokesmen for the Government have explained that policy in this respect is the same as that for the Coloured community, but have repeatedly stated that Indians will never be granted representation in the central Parliament. This was confirmed by the Minister of Indian Affairs[8] in May when he stated categorically that "political rights of Indians will be limited to self-government within their own community but there it will end". He explained that the Coloured community was different in that it had previously enjoyed parliamentary representation, and would therefore not now "be deprived of it". Indians, on the other hand, had in the past been offered representation on the same basis as the present representation of Coloureds but had rejected it, so that it would be useless to offer it to them again.

In a speech in May,[9] the Minister emphasised that it was considered essential that the proposed Council should be representative of all the various interests in the Indian population. For this reason the Government was not being "overhasty" in constituting such a body because it was necessary first of all to make contact with the various sections of the community and to build up goodwill. Previous contacts made had produced "very excellent results" and there was a "growing goodwill" on the part of the Indian community.

The proposed consultative committee has been the subject *(inter alia)* of discussions between certain members of the Indian community and the Government which are described below.

NEGOTIATIONS BETWEEN THE GOVERNMENT AND INDIAN LEADERS

A 12-man deputation of Indians led by Mr. H. E. Joosub of the Pretoria Traders' Association met the Minister of Indian Affairs

(6) Page 120.
(7) 1961, page 141; 1962, page 121.
(8) Assembly, 21 May, Hansard 17 col. 6434.
(9) *Ibid*, col. 6379.

in Pretoria in May. The Minister was reported[10] to have made various promises to the deputation, as a result of which it was expected that certain concessions would be made including: (a) the setting up of a permanent interdepartmental committee representing the Department of Indian Affairs and the Department of Community Development to hear complaints resulting from the implementation of the Group Areas Act (the deputation had asked for an impartial committee of enquiry); (b) the easing of Group Areas legislation so that Indians whose homes were moved would not necessarily have to give up businesses in White areas; (c) in pursuance of this, 40 Indian traders in the western areas of Johannesburg who had been given notice to move by 30 April would not be prosecuted if their efforts to do so failed although they were expected to move to other suitable areas as soon as possible; (d) representations would be made to exempt Indians in certain trades (e.g. catering), from job reservation restrictions; (e) similar representations would be made regarding the lifting of certain apprenticeship restrictions.

The leader of the deputation is reported to have said afterwards that Indians would have to accept the fact of separate development, no matter how hard it might be. No outsiders could help and the Indian people did not ask for intervention.

The report quoted above also stated that Indian leaders from the Transvaal were now giving "serious consideration" to the establishment of a national consultative body, although it would not necessarily be the type of body proposed by the Government. They believed that a representative body might be formed by expanding Indian commercial organizations to include the different provinces and the various interest groups.

The following week the Minister stated[11] that the outcome of the discussions had been completely misrepresented in the report quoted above. The only decision taken was to set up a two-man committee consisting of a representative of his own Department and one from the Department of Community Development. This committe would determine the facts for the information of the Ministers of the two Departments only where there appeared to be bona fide cases of hardship resulting from the application of the Group Areas Act, and only where the information of the Department of Community Development was different from that furnished by the Indians concerned, as happened frequently. He had made it clear that Government policy was inflexible and that all Indian traders would ultimately have to move from White areas. Whilst his Department provided liaison between Indians and other Departments, it was not its function to try to persuade other Departments to abandon their policy or to apply a different policy.

(10) *Sunday Times*, 19 May.
(11) Hansard 17 op. cit. cols. 6363 *et seq.*

Despite the Minister's denials, the leader of the deputation of Indians claimed[12] that the Press report concerning the Minister's undertakings was an accurate one.

In August, a group of 15 Indian leaders from different parts of the country met the Prime Minister during his visit to Durban when they were reported[13] to have asked him to convene a meeting between members of the Cabinet and a representative group of Indians to discuss the problems facing the community. In rejecting the request, the Prime Minister instead appealed to the delegation to co-operate with the Government in the establishment of a national council which would be a "channel for continuous consultation".[14]

This meeting was reported to have been a cordial one, and there was said to be some indication that certain Indian leaders might be prepared to lend support to the proposed consultative council.

Since this meeting, additional Group Areas have been proclaimed[15] in Durban and elsewhere which will result in the further large-scale displacement of the Indian community. This has caused widespread dissatisfaction and opposition to the Government's policy in relation to Indians.

INDIAN LAWS AMENDMENT ACT, No. 68 of 1963

The Indian Laws Amendment Act (No. 68 of 1963) will come into operation at the beginning of 1964, and will remove some of the special legal disabilities attaching to the Indian community which were the subject of Institute representations to the Government outlined in last year's *Survey*.[16] Other legal disabilities of Indians which have not been removed will be described in the section which follows.

Until the new Act was passed there were special and highly complicated laws, many applying only in Natal, relating to marriage and to the registration of births and deaths of Indians, which have given rise to considerable hardship, confusion, litigation and anomaly. Certain laws applied to so-called "Indian immigrants" and other laws to "passenger Indians". ("Indian immigrants" is the term used by laws to describe those Indians who were originally brought out as indentured labourers under various assisted schemes, and "passenger Indians" are those who came from India independently at their own expense. The laws also applied to their descendants.)

For instance, under one law dating back to 1891, certain marriages between "immigrant" and "passenger" Indians could be

(12) *Sunday Times*, 25 May.
(13) *Rand Daily Mail*, 28 August.
(14) *Natal Witness*, 11 September.
(15) See page 174.
(16) Page 128.

declared invalid. This gave rise to an enormous amount of litigation involving the property rights of wives and children, and other laws permitting validation in certain circumstances complicated the position still further, so that in some cases it became virtually impossible to decide whether many Indian marriages were valid or not.

The effect of the new Act is that the same laws relating to births, marriages and deaths will in future apply to all Indians, irrespective of whether they are "immigrants" or "passengers". In future, so far as marriages are concerned, all Indians will be permitted to make use either of the provisions of the Marriage Act No. 25 of 1961 which applies to all race groups in the country, or of the Indian Relief Act No. 22 of 1914 which previously only applied to "passenger" Indians. The Act also contains provisions to validate hitherto legally defective marriages in certain instances.

Where they so desire, Indians will (as in the past) still be able to contract unions in accordance with the rites and formalities of their own particular religions. Such unions will, however, from 1 January 1964 become legally valid only from the date on which they are registered. ("Passenger" Indians previously had the right to register retrospective marriages but Indian "immigrants" did not. In future, no Indian marriage can be registered retrospectively.)

In future, Magistrate's Courts will no longer have any jurisdiction in suits for divorce or nullity of certain Indian marriages, and such cases may only be heard by the Supreme Court, as is the case with other races with the exception of Africans. Special provisions relating to adultery, seduction and abduction are repealed and in future the ordinary criminal law of the land will apply in such cases.

Provisions of other Acts applying only in the Transvaal are also repealed, e.g. those providing for the registration of Asian youths between the ages of 8 and 16 years.

A clause in the Indian Relief Act has been retained enabling the Government to pay a small repatriation grant to Indians entitled to a free passage to India. Members of the Opposition asked for this to be deleted, but the Minister, while agreeing that Indians were regarded as a permanent part of the population and that repatriation was no solution, said[17] that this clause would be retained for the benefit of old people who wished to return to live with relatives.

INDIAN DISABILITIES

As described in last year's *Survey*, the Institute in 1962 made representations to the Government urging that a number of legal disabilities applying to the Indian community should be removed.

(17) Assembly, 19 June, Hansard 21 col. 8272.

The Indian Laws Amendment Act described above has removed some of these, but others still remain, including:

(a) restrictions on the inter-provincial movement of Indians;
(b) the inability of Indians to adopt surnames;
(c) prohibition on bringing wives into South Africa or bringing in children born outside the Republic;
(d) the fact that Indians born in the Native States of India and domiciled in South Africa are neither South African citizens nor citizens of India and are therefore "stateless";
(e) the payment of pensions and grants to Indians in the magisterial district of Durban at a central office and not through post offices, resulting in hardship, expense and inconvenience.

These and other matters are dealt with more fully in an Institute memorandum on "Legislation Relating to Indians"[18] and in previous issues of this *Survey*.

The Minister of Indian Affairs was reported to have said[19] in January that while he had received no representations to allow unemployed Indian waiters in Natal to seek work in other provinces, his Department had given quite a number of Indians permission to move to other areas of the country. He said that this was not a change in policy but was perhaps a "more humane application of the existing Acts". He added "I think it better in the long run to try to create possibilities of employment in areas where they (Indians) are settled than to move them around the country".

A survey of the training, employment and distribution of hotel employees published later in the year by the School of Catering Services of the M. L. Sultan Technical College in Durban recommended that there should be opportunities for the freer movement of qualified catering personnel throughout the country. Restrictions on the movement of Indians aggravated the staff shortage in various parts of the country.

In May, it was reported that 9 Indian waiters and chefs from Durban were the first batch of Indian workers in Natal to be granted one-year employment permits to live and work in the Transvaal. Hitherto, Natal Indians working in the Cape and the Transvaal were given permits renewable every three months which necessitated their travelling to Durban. A spokesman for the M. L. Sultan College described this as a progressive step and said that the utilization of trained Indian staff would have a beneficial effect on the catering industry.

[18] R.R. 146/62.
[19] *Natal Daily News*, 9 January.

GROUP AREAS AND HOUSING

LEGISLATION

REMOVAL OF RESTRICTIONS IN TOWNSHIPS AMENDMENT ACT, No. 32 of 1963

This Act widened the powers of the State and of provincial and local authorities to have any restrictive conditions on land (e.g. prohibiting occupation by Non-Whites) removed in cases where the authorities require the land for public purposes.

SLUMS AMENDMENT ACT, No. 55 of 1963

The Slums Amendment Act increased the powers of the Government to ensure that the duties of local authorities under the Slum Clearance Act are carried out.

HOUSING LOAN SCHEMES

LOAN FUNDS

The Minister of Community Development and Housing announced that as from 1 July 1963 there were to be certain changes in the conditions relating to housing loan schemes.[1]

Sub-economic schemes

Sub-economic housing schemes are erected by the Department of Housing, or, with the aid of State loans, by local authorities, for the poorer White, Coloured, and Asian families (but no longer for Africans). The income limits qualifying families to rent such houses have been raised, as follows:

Maximum monthly family income	*Until 30 June 1963*		*From 1 July 1963*
	Areas where wages in the building industry are controlled	*Other areas*	*All areas*
Whites	R60	R50	R80
Coloured	R40	R33	R50
Asians	R40	R33	R50

The Minister said that families with incomes below these figures are already experiencing want, and the rent payable must

[1] Assembly, 7 June, Hansard 19 cols. 7521-4; 18 June, Hansard 21 col. 8122; also Departmental Circular No. 86/63 of 25 March and statement by Secretary for Housing, *Rand Daily Mail*, 22 June.

in Charlestown, Volksrust, or other towns and did not want to move to Duckponds could go, instead, to the Bantu residential areas of the towns concerned, the Minister continued.

ESTCOURT

The Government plans that in places where there are African Reserves fairly near to towns, the Africans working in these towns should be moved out to new villages in the Reserves. Duckponds, for example, will serve Newcastle. The Minister said in March[23] that the development of Estcourt location had been frozen because a township was to be established in a Bantu homeland nearby.

([23]) Assembly, 15 March, Hansard 8 col. 2816.

EMPLOYMENT

GENERAL ECONOMIC SITUATION

NATIONAL INCOME

South Africa's national income for 1961 and 1962 was:[1]

	1961	*1962 (Provisional figures)*
Total national income	R4.791,000,000	R5,004,000,000
Less sums due to other countries	R 437,000,000	R 403,000,000
Net national income	R4,354,000,000	R4,601,000,000

IMPORT REPLACEMENT SCHEME

Details are given on page 118 of the Government's plan to stimulate the expansion of the textile industry in "border" areas, near to African Reserves. An amount of R45,000,000 will be provided over a ten-year period to buy land, develop industrial townships and housing schemes, build factories for sale or lease to industrialists, and make loans to industrialists for the purchase of machinery and plant.

This is part of an Import Replacement Scheme designed to make South Africa more self-sufficient in the fields of textile, chemical, metal, and engineering production.

It is reported[2] that the second stage of this plan is linked with the policy of producing more military equipment withinn the country.

SHORTAGE OF SKILLED MANPOWER

REPORTS ON STANDARDS OF WHITE WORKERS

The Council for Scientific and Industrial Research investigated the educational standards and ambitions of White youths who registered for Citizen Force training in 1954. In its 1962 report the Council predicted a serious shortage of White men capable of filling posts that require qualifications higher than matriculation. Between 22 and 25 per cent of the male White population may be needed for such posts, it stated; but only about one in five was trying to qualify for them.[3]

([1]) Official *Bulletin of Statistics*, April.
([2]) *Star*, 13 August.
([3]) *Star*, 2 and 3 April.

LIQUOR

LIQUOR AMENDMENT ACT, No. 88 of 1963

The Liquor Amendment Act, No. 88 of 1963, introduced a number of further relaxations in the laws applying to Non-Whites. Other important relaxations had been brought about in 1961 and 1962 and are described in the two previous issues of the *Survey*.

The Institute of Race Relations sent a memorandum[1] to the Select Committee which examined the Bill in which it made a number of comments and recommendations. None of these recommendations was, however, adopted.

The main provisions of the Act relating to Non-Whites and a summary of the Institute's comments are outlined below.

Previously, a section in the Liquor Act made it illegal for employers to supply Non-White employees with liquor—whether free, or as wages or supplementing wages, or as a reward. An exception to this general prohibition was the so-called 'tot system' under which employers were permitted to supply to Non-White farm workers over 21 years of age in the Cape, and any Non-White worker aged 18 or more in the Free State, a certain stipulated maximum quantity of free liquor daily.

These provisions have now been completely repealed, and instead, two new sections provide:

(a) that no person can supply any liquor to any person in his employ *as or as supplementing the employee's wages or remuneration;*

(b) that any employer may supply liquor *gratis* to any African of the age of 18 years or more, bona fide employed by him and for the personal consumption of the employee.

The Institute of Race Relations welcomed the first of these provisions, but expressed concern that the second provision could, if abused, lead to the revival and even the extension of the 'tot system'. It submitted that effective safeguards were necessary to prevent this. It pointed out that liquor could in future be supplied free by employers to all classes of workers anywhere in the country (excluding the Transkei) with no limitations on quantity, and except in the case of Africans, also with no restriction regarding age. (The Institute felt that while employers should be able to offer occasional drinks to workers, it was wrong in principle and could lead to grave social problems if liquor were to be supplied regularly,

(1) RR. 67/1963.

especially to young people. It could also become a form of wage supplementation.)

Another provision in the Act now permits an African to supply liquor *gratis* for consumption by any other African who is a member of his household or who is his bona fide guest. Hitherto this had been an offence. In addition, all restrictions on the purchase and possession by Africans of methylated spirits and yeast have been abolished and in this respect Africans have been placed in exactly the same position as members of other races. (The Institute welcomed these provisions.)

Whilst Africans can legally offer drinks to members of other races, members of other races (except for employers) are still not in a position to offer drinks to Africans. Thus the Mayor of a city is still prohibited, for example, from offering drinks to African guests at a civic reception for a visiting African chief, but such a chief can himself hold a reception and offer drinks to White city councillors. For this reason, soft drinks only were served at a multi-racial diplomatic reception given in April by the British Consul-General in Johannesburg in honour of the Queen's Birthday.[2] And for the same reasons, a multi-racial civic reception, which was to have been given by the Durban City Council for delegates to a Trade Union Council congress in May, was cancelled after legal advice had been taken.[3] This position has remained unaltered by the new Act.

The Act provides for the issue of grocers' liquor licences in certain circumstances, but states that they cannot be issued to persons disqualified under the Group Areas Act, whether the area concerned has been proclaimed an immediate or a future group area.

(The Institute pointed out that in many cases, "disqualified" owners of businesses might not be legally required to vacate their premises for some period, and urged that so long as businesses could lawfully be carried on, they should automatically be eligible for any right pertaining to the conduct of the business, including the right to apply for such licences.)

OTHER LEGISLATION

A provision[4] in the Railways and Harbours Amendment Bill introduced during the year empowers the Administration to sell liquor in trains to which dining cars are attached and in aircraft to Africans over the age of eighteen years.

RESULTS OF LIQUOR AMENDMENT ACT OF 1961

The provisions of the Liquor Amendment Act of 1961 were described in the *Survey* for that year.[5] *Inter alia*, it removed all

(2) *Rand Daily Mail*, 24 April.
(3) *Star*, 28 March.
(4) Section 5 (1) (b).
(5) Page 146.

restrictions on the purchase of alcohol by Coloured and Asian people, and made it lawful for Africans aged 18 or more to buy liquor from bottle-stores.

It came into operation on 15 August 1962, and although there had been much speculation about the likely results, Non-White people are reported to have bought liquor in moderation.

The report of the Department of Justice for the year ended 31 December 1962 stated that the lifting of liquor prohibition had resulted in a decrease in the number of cases of drunkenness. After stating that Non-Whites had not purchased liquor on a large scale, it added, "Among the Bantu in particular, purchases of liquor are relatively low. It may probably be attributed to the price factor and the fact that, even before the lifting of the prohibition, liquor was not an unknown commodity to many Bantu". The report also said that many shebeens had been closed down but some had remained in existence mainly due to the granting of credit, lower prices (although for diluted liquor), and the selling of liquor at all hours. It concluded that it was too early to determine the future drinking pattern of Africans. Africans in the Transvaal appeared to prefer malt liquor whereas those in the Cape and Free State preferred wine. In some urban areas, on-consumption premises were not frequented on a large scale, and indications were that people preferred having drinks at home.

In February, it was reported[6] that liquor sales had greatly increased since the new liquor laws had come into force. Excise duty on sales had reached record figures and was expected to bring in at least R2,000,000 more than the figure that had been estimated for 1962/3.

The Minister of Justice said in March[7] that the results of making liquor available to Africans had exceeded the greatest expectations and that despite fears expressed in some quarters, there had been no outbreaks of violence and no misery. There had been no evidence of a rise in the crime rates, and on the contrary, the Town Clerk of Johannesburg had reported that crime had decreased in the African residential areas, that the past Christmas holidays had been the quietest for many years, and that there had been little or no drunkenness. In June, the Minister told the House of Assembly that during the first four months of 1963 there had been 2,868 fewer convictions of Africans for drunkenness than in the corresponding period of 1962, and that over the Christmas period there were fewer assault cases in the townships of Pretoria than in any other year on record.

The traffic court magistrate in Port Elizabeth, on the other hand, was reported[8] to have said in May that the number of Africans charged with driving under the influence of liquor had increased "most disturbingly" since the liquor laws were changed.

(6) *Sunday Times*, 10 February.
(7) *Rand Daily Mail*, 15 March.
(8) *Star*, 15 May.

A detailed study of the use and abuse of liquor by Whites, Africans, and Coloured has been completed by the National Bureau for Education and Social Research (a division of the Department of Education, Arts and Science) and will later be published.

BANTU BEER

Details of the Bantu Beer Act, No. 63/1962, were given in last year's *Survey*. This Act does not apply in rural Bantu areas where regulations issued under the Native Administration Act of 1927 apply. Bantu beer has been sold at bottle-stores since August 1962, i.e. from the same date on which restrictions on the purchase of liquor by Africans were removed. The Department of Justice reported that, contrary to expectation, the consumption of Bantu beer had shown a notable increase in almost all urban areas for which figures had been obtained and that in at least one urban area in the Transvaal the increase was 65 per cent. It appeared that in general Whites did not buy Bantu beer on a large scale.

New regulations relating to the brewing and sale of beer in rural Bantu areas were promulgated in March.[9] These provide, *inter alia*, that anyone may brew beer for domestic consumption unless the Bantu Affairs Commissioner, after consultation with the relevant Bantu authority, has prohibited this in a particular kraal or other place because it has been brewed in excessive quantities, or with an excessive alcoholic content, or where he considers it is otherwise in the public interest to do so. No one other than licence holders may sell beer.

LICENCES FOR SALE OF LIQUOR IN NON-WHITE AREAS

The conditions attaching to the issue of licences for the sale of liquor in Non-White areas were outlined in last year's *Survey*[10] and some details were given of applications received and approved by the National Liquor Board.

The first of the Johannesburg City Council's "better-type" bar lounges for Africans in the townships was opened at Dube early in the year. Strict rules of behaviour and dress were enforced in the lounge which was described as ultra-modern. Only men were admitted to this particular lounge, but it was intended that women should be admitted to other lounges to be built later.

Applications for liquor licences by 38 Coloured associations of persons were considered by the authorities early in 1963 of which only 14 were granted, 10 in the Cape and four in the Transvaal.[11] Three companies were granted licences to build premises

(9) Proclamation R50, 22 March.
(10) Page 134.
(11) *Rand Daily Mail*, 19 April.

in Johannesburg which would consist of a bottle-store, a lounge and dining-room. Two of the companies would carry on business in Newclare and the third in Coronationville. One of the companies had applied to the Coloured Development Corporation for a loan of R24,000. None of the premises would be permitted to have a bar and no liquor could be sold from the bottle-stores to any African.

In August it was reported[12] that the Durban Municipality had opened four bottle-stores and two bars in the African areas of the city. They had not, however, attracted the expected number of customers and were being run at a substantial loss. Contributory factors were said to include the low wages paid to Africans who apparently still preferred the cheaper traditional Bantu beer. Bantu beer-halls continued to run at a profit.

In September it was reported that within the following year 28 new liquor sales centres for Africans would come into operation in Natal, making a total for this province of 44. They would include an African hotel at Umlazi with a bottle-store attached, a bottle-store at Imfume Mission near Illovo, and bottle-stores for regional authorities at Eshowe, Mtunzini, and Ukukanyekifikili (near Port Shepstone).

The Deputy Minister for Bantu Administration and Development told[13] the annual meeting of SABRA in October that profits from liquor sales would be used to provide facilities in Bantu homelands.

The National Liquor Board is to hold a further meeting in January 1964 to consider applications for licences to sell liquor to Africans and from associations of Indians and Coloured persons to sell liquor to members of these two race groups.

(12) *Rand Daily Mail*, 6 August.
(13) In a paper on *Urban Bantu Policy Against the Background of the Policy of Separate Development*.

JUSTICE

CRIMINAL STATISTICS

The following figures are quoted from the September issue of the monthly *Bulletin of Census and Statistics*.

It will be noted that figures for 1962 are much lower than in previous years, especially in the category of 'non-serious' crime. This is because (from January 1962) certain non-serious offences, mainly traffic offences, are no longer included in the statistics.[1]

The figures do not refer to different persons but to actual convictions. One person may have been convicted more than once in any one period. Crimes and offences are classified into about 340 items or codes of which 110 are for serious crimes.[2]

Despite the fact that, for the reasons stated above, the figures reflect a decrease in crime rates, it will be seen from figures quoted elsewhere in this section that the prison population has shown a considerable increase and that the matter is being regarded with some concern.

Number of Convictions Per Annum

(a) Serious and Non-Serious Crime

	Whites	*Coloured*	*Asians*	*Africans*
1958 ...	162,776	158,615	31,062	1,122,081
1960 ...	220,115	160,470	36,462	947,856
1961 ...	213,081	167,872	41,758	962,155
1962 ...	96,328	128,308	21,703	861,172

(b) Serious Crime Only

	Whites	*Coloured*	*Asians*	*Africans*
1960 ...	14,325	15,005	1,394	62,680
1961 ...	13,904	15,645	1,394	65,057
1962 ...	13,675	15,292	1,305	67,714

On the basis of the new system of crime classification adopted in 1962, the following calculations show the crime rate in 1962 for each population group, both for serious and non-serious crime.

A further calculation (3 below) shows non-serious crime rates if one omits offences under Bantu supervision and control regulations, and also offences relating to the possession of liquor, the laws in respect of which have recently been relaxed.

(1) July/August Supplement to *Bulletin*.
(2) *Ibid.*

are to devise the best means for the prevention of crime and to promote the right treatment of delinquents. Matters that have recently been given attention by the League include the question of short-term imprisonments, the criminal prosecution of Africans for non-payment of rent, the farm gaol system, the arrest of petty offenders for contraventions of a technical nature, the drafting of recruits to police stations without preliminary training, and the question of pre-criminal dangerousness.

LEGAL AID

As mentioned in previous *Surveys*,[25] the Government in 1961 introduced a new system of legal aid to replace the voluntary bureaux that previously operated in the larger centres. Details of how the new system is working throughout the country are not yet available. In Johannesburg, a magistrate was appointed in 1961 as full-time legal aid official but no committee has yet been appointed under the Government scheme, nor has a panel of attorneys so far been created. The voluntary legal aid bureau which has been in existence for many years has continued to operate, under the control of a committee including representatives of the Bar and Side-Bar, the Johannesburg Municipality, and the Institute of Race Relations. Since the introduction of the Government system there has been no representation from Government Departments and a Government grant (R1,275 in 1961) was withdrawn. In 1962, grants from the Johannesburg City Council were increased by R1,600. In Roodepoort no special legal aid officer had been appointed by mid-1963 but any applications for aid were received by the public prosecutor, who referred them to a committee composed of attorneys and Government officials. Most (if not all) applications had been by Whites mainly in respect of matrimonial cases. In Krugersdorp the magistrate acts as legal aid officer and is also chairman of a committee similar to that in Roodepoort. In Pretoria there is a special legal officer under the new system which was officially started late in 1962, although a similar system had been in operation for some years previously. At mid-1963 there were 24 attorneys on the panel. The voluntary bureau in Durban has been taken over by the Government under the new scheme with little administrative change apart from the fact that bodies such as the Social Services Association and Institute of Race Relations are no longer represented on the committee.

Reports to the Executive Committee of the Institute of Race Relations by its various regional offices highlighted the need for legal aid and the appointment of prisoners' friends for Africans in Bantu Commissioners' Courts.

(25) 1959/60 page 273; 1961 page 282.

FOREIGN AFFAIRS

UNITED NATIONS' DEBATES

SOUTH-WEST AFRICA

Development plans

The Government plans to set up full systems of Bantu Authorities in the Reserves in the north of South-West Africa; first in Ovamboland, later in Okavangoland, to the east; and at some stage in the Kaokoveld, to the west. Some tribal authorities are already functioning.

Ovamboland, about 16,220 square miles in extent, has about 250,000 inhabitants, of whom only about 38,000 are away at work at any one time. It is a very dry territory: for the past four years drought conditions have prevailed and the Government has sent in grain to supplement local crops. Dams and canals are being constructed to trap seasonal floodwaters and local rains. The idea is that the canals should ultimately tap the Kunene River on the northern boundary, but the most practicable place is some seven miles inside the Angola border. After lengthy negotiations with Portugal it has been agreed that the canals and dams should be linked with the Kunene River, and that a large dam and a hydro-electric scheme should be constructed. This scheme will cost about R40,000,000.

Okavangoland, with an area of 12,490 square miles, has about 30,000 inhabitants. So far it is undeveloped but agriculture could be improved, for the territory is well watered. The Kaokoveld, with about 13,000 people, largely nomad cattle-owners, measures about 21,000 square miles. It is a remote and primitive territory.[1]

It was mentioned in last year's *Survey*[2] that the Government had appointed the Odendaal Commission to draft a five-year plan for promoting the welfare and progress of the people of South-West Africa, more particularly the Non-Whites. At the time of writing this commission had not submitted its final report; but in May it made five interim recommendations of an *ad hoc* nature which were accepted by the Government.[3] These were as follows:

a) the Administration's plans for a 444-bed hospital at Okatana in southern Ovamboland should be carried out as soon as possible;

(1) From *Star* reports, 24 April, 19 and 28 November.
(2) Page 231.
(3) White Paper tabled by the Prime Minister on 27 May.

b) the canal scheme in Ovamboland should be extended rapidly;
c) a community centre should be provided for each of the seven African ethnic groups in Ovamboland;
d) postal and telegraph services should be extended in this area;
e) a township should be established for Africans near the tin ore mine in the Okombahe Reserve west of Omaruru. The company operating the mine should be asked to undertake to employ residents of this Reserve wherever practicable, rather than people from elsewhere.

The main African opposition to the South African Government's policies in South-West Africa comes from the Hereros, led by Chief Hosea Kutako and Clement Kapuwo. The chief is leader, too, of the S.W.A. People's Organization (SWAPO), which is said to have a small foothold among the Ovambo people, and with which the Baster community has allied itself. There is also a S.W.A. National Union (SWANU). The majority of the Africans, particularly those in the Reserves, probably have little knowledge of either of these parties.

Proceedings at the International Court of Justice

It was mentioned last year that South Africa challenged the competence of the International Court to decide on the action against South Africa instituted by Ethiopia and Liberia. In December 1962 the judges ruled, by 8 votes to 7, that the court did have powers of jurisdiction over South Africa's administration of the South-West African mandate.[4]

Since then Ethiopia and Liberia have handed in memorials and South Africa had filed counter-memorials.

Proceedings at the United Nations, December 1962

In December 1962, by 98 votes to nil with 1 abstention, the United Nations General Assembly ratified a draft resolution of the Trusteeship Committee.[5] South Africa did not participate. *Inter alia,* the Secretary-General was asked to take all necessary steps to establish an effective United Nations presence in South-West Africa as a first step to preparing the territory for independence, and to appoint a technical assistance resident representative. The supervision of the affairs of the territory was transferred from the previously-existing Special Committee on South-West Africa to the Special Committee on Colonialism.

U Thant subsequently drew South Africa's attention to the terms of the resolution and asked its views on the appointment of a resident technical expert. South Africa replied that until the

(4) *Star,* 21 December 1962.
(5) See 1962 *Survey,* page 237.

Odendaal Commission's findings and recommendations had been received and studied it could not consider whether or not outside expert advice would be necessary. It would publish the recommendations in full and state to what extent it intended carrying them out. The Secretary-General was reminded of the case before the International Court.[6]

Committee on Colonialism

South Africa declined an invitation to participate in the work of the Committee on Colonialism (often known as the "Committee of 24") on the ground that the question was *sub judice.* At a meeting held in May the Committee deplored South Africa's refusal to co-operate, again urged the Secretary-General to establish a United Nations presence in the territory, and made it clear that the duties of such a presence would be to ensure that the full terms of the 1962 resolution were carried out.

HUMAN RIGHTS

During April the U.N. Commission on Human Rights drafted a declaration which was adopted by the General Assembly on 20 November. It is a lengthy document dealing with many aspects of racial discrimination and with what states can do to eliminate this.

South Africa's policies were singled out for special mention. The declaration stated, *inter alia,* "An end shall be put, without delay, to governmental and other public policies of racial segregation, and especially policies of apartheid, as well as all forms of racial discrimination and separation resulting from such policies". All states were urged, if necessary, to pass legislation prohibiting such discrimination.

The president of the Assembly announced that the decision to adopt the declaration had been unanimous; but South Africa's representative stated that his delegation had not participated in the voting.

SOUTH AFRICA'S RACIAL POLICIES

Proceedings of Special Committee, April to July

The terms of a far-reaching resolution passed by the Assembly at the end of 1962 were described in last year's *Survey.*[7] It was recommended that member states should break off diplomatic relations with South Africa, boycott her goods, refuse all facilities to her ships and aircraft, and refuse to export goods, including all arms and ammunition, to South Africa. The resolution called for the establishment of a special committee, to be nominated by the

(6) *Star,* 4 April, and other sources.
(7) Page 230.

President of the Assembly, to keep South Africa's racial policies under review when the Assembly was not in session and to report to the Assembly, the Security Council, or both, as might be appropriate from time to time.

This resolution was passed by 67 votes to 16, with 23 abstentions. Among those who voted against it were the major Western powers: their representatives made it clear that they found South Africa's racial policies abhorrent but that they were opposed to the imposition of sanctions. General Assembly resolutions are not mandatory on member states.

Subsequently Algeria, Costa Rica, Malaya, Ghana, Guinea, Haiti, Hungary, Nepal, Nigeria, the Philippines, and Somalia were nominated members of the special committee on apartheid.

During April the committee invited the South African Government to lend its co-operation and assistance to assist it in fulfilling its task objectively and effectively. South Africa replied that it regarded the adoption of the Assembly resolution, including the establishment of this committee, as contrary to the provisions of the Charter. It was, thus, not in a position to co-operate with or assist the committee.[8]

The committee submitted two reports to the Security Council, in May and July respectively. It stressed the danger of violent clashes in South Africa which might spark off a wide-scale conflagration in territories to the north. Concern was expressed at recent legislation giving the South African Government extended powers of detention of political opponents. The committee drew the attention of the Security Council to an alleged large-scale military build-up in South Africa. It urged that member states should impose sanctions and break off diplomatic and commercial relations, and that the Council should enforce an embargo on the supply of oil and of arms.[9]

Proceedings of the Security Council in August

At the request of 32 states (mainly African) the Security Council met at the beginning of August to consider the situation in South Africa. Before the meeting South Africa's Minister of Foreign Affairs announced that beyond asking its permanent representative to observe proceedings his country would take no part in the proceedings. Some days later the President of the Council invited South Africa to participate in the debate without voting power; but the Minister replied that no useful purpose would be served by re-stating the South African case. He reiterated the view that the matters to be discussed fell solely within South Africa's domestic jurisdiction.[10]

The Security Council has 11 members. Seven affirmative votes are required for the adoption of a resolution, and there must be no veto from one of the permanent members (which are Britain, the United States, Russia, France, and Nationalist China).

On 7 August, by 9 votes to nil with 2 abstentions (Britain and France) the Council passed a resolution in which it stated that the situation in South Africa was seriously disturbing international peace and security. (The original draft read that the situation was a *threat* to international peace and security, but the United States opposed the use of the word "threat".) The Council strongly deprecated South Africa's racial policies, and called on the Government to renounce apartheid and to release "all persons imprisoned, interned, or subjected to other restrictions" because of their opposition to the apartheid policy. It solemnly called on all states to cease forthwith sales to South Africa of military equipment and the shipment of arms, ammunition of all types, and military vehicles. The Secretary-General was requested to keep the situation under observation and to report to the Council by 30 October.

Two paragraphs of the draft resolution were rejected because they received only 5 votes: Ghana, Morocco, the Philippines, Russia, and Venezuela. The other members abstained: these are the United States, Britain, France, China, Brazil, and Norway. The paragraphs concerned called for a total boycott of South African goods and an embargo on the export to South Africa of strategic materials of direct military value.

During the debate, as has been mentioned in an earlier chapter, the United States announced that it expected to stop all sales of military equipment to South Africa by the end of 1963. Existing contracts for strategic defence equipment suitable for use against external threats would, however, be honoured. The embargo might be revised if the interests of the world community required the provision of material in a common defence effort. Britain and France decided to cut off supplies of weapons that could be used for suppression, but to continue selling equipment that might be needed for strategic defence against outside aggression. Britain added that it would also supply any arms that it considered were needed for the joint British-South African protection of the shipping route round the Cape, in terms of the Simonstown agreement.

The British representative, Sir Patrick Dean, said his delegation regretted not being in a position to vote with the majority on the resolution mentioned above, but certain features of it had made this impossible for them. He made it quite clear, however, that his Government was very strongly opposed to apartheid. He is reported to have said that South African leaders were "by their inadmissable racial policies carrying their countrymen, of whatever race, to certain tragedy". Britain, he stated, considered that Governments should continue to exert the maximum pressure

(8) *Star*, 2 April, *Rand Daily Mail*, 19 April.
(9) *Rand Daily Mail*, 8 May and 19 July.
(10) *Star*, 24 July and *Rand Daily Mail*, 1 August.

possible, and should use whatever measures they thought appropriate and which were consistent with the Charter, to persuade South Africa to change its racial policies before it was too late.[11]

France, too, deprecated apartheid. Its representative is reported to have said that the South African Government had set up a "fatal chain reaction". He appealed to the Government to reconsider its policies.[12]

Report by the Secretary-General

The Secretary-General reported later that 44 countries had agreed to refuse the sale of arms that could be used to enforce the apartheid policy. Another country did so a few days later.[13]

Further report by the Special Committee

In a further report, made in September,[14] the Special Committee stated that the extreme gravity of the situation called for new measures. It proposed that South Africa should be expelled from the United Nations and its specialized agencies. A study should be undertaken of means to ensure an effective embargo on the supply of arms and ammunition, as well as oil and oil products, to the Republic. Member states should be advised to prohibit or discourage foreign investments in South Africa, loans to its Government or to South African companies, and emigration to the country. The administrations of neighbouring states should provide asylum and relief to political refugees, and means should be explored of providing assistance to victims of apartheid through appropriate international agencies.

Session of the General Assembly

It was announced in September[15] that South Africa's Minister of Foreign Affairs, Mr. Eric Louw, would not attend the session of the General Assembly, but that the country would be represented by a strong delegation of diplomatic officers headed by Mr. G. P. Jooste, Secretary for Foreign Affairs.

After the Special Committee's report had been submitted to the General Assembly Mr. Jooste was given leave to reply. Algeria immediately moved that the proceedings be suspended for 20 minutes as a "symbolic demonstration" of the United Nations' abhorrence of racial discrimination: this motion was passed by 68 votes to 17 with 22 abstentions.

After the adjournment, as Mr. Jooste walked to the rostrum there was a mass walk-out of the African and Communist delega-

(11) *Rand Daily Mail*, 9 August.
(12) *Ibid*, 15 August.
(13) See page 34 for the names of some of these countries.
(14) *Rand Daily Mail* and *Star* of 18 September.
(15) *Rand Daily Mail*, 14 September.

tions and some of those from Asian and Latin-American countries.[16]

During the debate that followed, Mr. Per Haekkerup, the Danish Foreign Minister, developed a line of thought that had emerged at a meeting of Foreign Ministers of the Scandinavian countries—Denmark, Norway, Sweden, Finland, and Iceland. He said[17] that South Africa's policies affected the world because if they led to disaster, as it was feared they would, widespread repercussions would result. Violence begat violence. The Scandinavian countries thus considered it essential that these policies should be changed. But they felt that new and positive suggestions should be added to existing endeavours if success were to be achieved.

The suggestions were that a democratic non-racial society should be established in South Africa that would guarantee equal rights to all inhabitants, White and Black. The responsibility for planning such a society should be shared by all members of the United Nations. The Secretary-General should be requested to set up a planning group of experts to study alternative possibilities to apartheid, phases of development towards the type of society desired, and the part to be played by the United Nations. The United Nations should state its readiness, if necessary, to lend assistance during a transitional period in the maintenance of law and order, the protection of life and of the civil rights of all inhabitants, the safeguarding of the economy, and the orderly shaping of a new society.

After this statement had been made Dr. Verwoerd invited the five Foreign Ministers concerned to visit South Africa and see conditions for themselves. The Scandinavian Governments thanked him for the invitation but said they felt their Foreign Ministers should pay such a visit only if it could lead to a solution of the racial conflict in accordance with the principles of the Charter.[18] Mr. Haekkerup said later that the Scandinavian countries could not accept the invitation because the issue was not one directly between them and South Africa: it concerned the world.[19]

It is reported that after Mr. Haekkerup's speech representatives of numerous countries met to discuss an alternative to apartheid that could be presented to South Africa in due course.

Later in the debate Mr. Jooste was given another opportunity to state his Government's case: this time there was no walk-out.

General Assembly resolution, October

A draft resolution for submission to the General Assembly was discussed by the Special Political Committee at the end of

(16) *Ibid*, 21 September.
(17) *Ibid*, 29 September, and from article by Mr. Per Haekkerup in the *Rand Daily Mail*, 5 November.
(18) *Star*, 27 September.
(19) In the article quoted above.

September. *Inter alia* it stated that the situation in South Africa was seriously disturbing international peace and security, and it condemned the Government's failure to comply with repeated resolutions of the General Assembly and the Security Council. It called for the immediate and unconditional release of political prisoners, and for an immediate end to the trials of all those accused under the "Sabotage Act" and related legislation.

When a vote was taken in the Security Council there were 9 abstentions—by the United States, Britain, France, the Netherlands, Belgium, Australia, Canada, New Zealand, and Panama. Spokesmen from these countries said that they supported the condemnation of South Africa's policies and her failure to modify these, but were concerned at the wording of the paragraphs on sabotage trials and political prisoners. The United States delegate said his country would support, rather, a paragraph similar to that contained in the Security Council's resolution of 7 August. It was pointed out that the General Assembly had no power to issue instructions to member states.

The draft resolution was presented as a whole to the General Assembly on 11 October, thus no vote was taken on individual paragraphs of it. On this occasion the abstentions were changed to affirmative votes: the voting was 106 to 1 (South Africa). Four delegations were absent (Portugal, Spain, Paraguay, and Honduras).[20]

RESUMED DEBATE ON SOUTH-WEST AFRICA

Trusteeship Committee

At a meeting of the Trusteeship Committee early in November 35 African and Asian countries submitted a draft resolution which reaffirmed earlier resolutions, branded as an act of aggression any action South Africa might take to annex any or all of South-West Africa; called on all nations that had not already complied with the arms embargo to do so forthwith; called on member states to cease supplying South Africa with oil and oil products; and drew the attention of the Security Council to the situation in South-West Africa as constituting a serious threat to peace.

Certain delegations objected to some of the paragraphs. The United States representative did not agree that the situation was a serious threat to peace: it constituted, rather, a dangerous source of international friction. He added that the question of an oil embargo was a matter for the Security Council, not the Trusteeship Committee. His motion to delete reference to this was defeated by 67 votes to 24 with 14 abstentions.

The draft resolution was passed by 82 votes to 6 with 16 abstentions. Those voting against it were the United States, Britain,

[20] From reports in *Star* and *Rand Daily Mail*, 12 October.

France, Portugal, Spain, and South Africa. The delegate from Iran said that his country would support the resolution in the interests of Afro-Asian solidarity; but he was not fully satisfied that it would produce the desired results. The bulk of Iranian oil was supplied through a consortium, thus the effectiveness of any embargo must depend upon the co-operation of all exporters. (The United States and France, which voted against the resolution, produce oil; the United States and Britain have great influence in the international oil industry; and there is reported to be a surplus of oil on the international market.)[21]

Voting at the General Assembly

When the resolution was presented to the General Assembly on 14 November it was adopted by 84 votes to 6 with 17 abstentions: again the United States, Britain, France, Portugal, Spain, and South Africa voted against it.

Thus far it was clear that all member states except South Africa were agreed on the *objective*: that South Africa's racial policies must be changed. They had not yet agreed on the *methods* to be used in achieving this objective. The Western Powers and certain others were opposed to the embargoes on oil and (with certain qualifications) strategic defence equipment, and to trade and diplomatic sanctions.

SECURITY COUNCIL MEETING, DECEMBER

The Security Council met again in December. According to various reports it appears that the Afro-Asian bloc was anxious that the South African question be dealt with under Article 7 of the Charter which is concerned with threats to peace, breaches of peace, and acts of aggression. Decisions made by the Security Council under this Article are mandatory on member-states. But the Afro-Asians apparently realised that such a decision was likely to be vetoed by the permanent members from the West, who still believed that a change in South Africa's attitudes could come only from within, and not through methods of coercion.

Following discussions they accepted a draft resolution introduced by Mr. Sivert Nielsen, the chief Norwegian delegate, under which the matter was dealt with under Article 6, which is concerned with the peaceful settlement of disputes and does not empower the Council to make mandatory decisions. The resolution, which was unanimously accepted:

a) called on South Africa to cease forthwith the continued imposition of discriminatory and repressive measures;
b) called on South Africa to liberate all persons imprisoned, interned, or subjected to other restrictions for having opposed apartheid;

[21] *Rand Daily Mail*, 6 and 9 November; *Star*, 8 and 14 November.

c) asked all member-states to comply with the previous Security Council resolution in regard to an embargo on sales to South Africa of military equipment, arms, ammunition of all types, and military vehicles;

d) asked member-states to cease the export to South Africa of ordnance equipment and materials that might be used to manufacture or maintain armaments for the enforcement of apartheid;

e) asked the Secretary-General to establish a group of recognized experts to examine methods of resolving the situation in South Africa through the full, peaceful, and orderly application of human rights and fundamental freedoms to all, regardless of race, colour, or creed; and to consider what part the United Nations might play in the achievement of that end. The South African Government was invited to avail itself of the assistance of this group. (This paragraph is in line with the suggestion by Mr. Haekkerup, described above.)

The Secretary-General was asked to report back by 1 June 1964 on the extent to which the resolution had been put into effect.

Representatives of Britain and France, who had abstained from voting on the Security Council resolution in August and had opposed the General Assembly resolution in November, voted for the December resolution proposed by Norway. They made it clear, however, as they had done previously, that they would not interfere with sales to South Africa of arms or ordnance equipment of the type required for repelling an external attack, although they would stop the sales of materials that could be used for internal suppression. The British representative added that existing contracts for the supply of ordnance equipment of all types would be honoured. The United States voted for the resolution subject to the same reservation it had made earlier: that the embargo might be revised if the interests of the world community required the provision of material in a common defence effort.

POLITICAL AND ECONOMIC BOYCOTTS

ALL-AFRICA CHARTER

In May, 30 heads of independent African states, controlling nearly one-third of the United Nations' votes, met in a summit conference at Addis Ababa. They came from the radical Casablanca group (Ghana, Algeria, the United Arab Republic, etc.), the more moderate Monrovia group (Nigeria, Ethiopia, etc.), the former French African and Malagasy Union, and the Pan-African Freedom Movement of East and Central Africa (Tanganyika, etc.).

Differences of opinion on important matters had existed previously. President Kwame Nkrumah of Ghana, for example, had been pressing for African political, economic, cultural, and military unity. President Houphouet-Boigny of the Ivory Coast and other leaders of former French territories were unwilling to sever their close economic ties with France. But these and other issues were overshadowed by the question of colonialism.

An All-Africa Charter was drawn up. In terms of this it was decided to set up a central organization to promote unity while acknowledging the sovereign independence and equality of member states; to co-ordinate and intensify collaborative efforts for a better life for the peoples of Africa; and to eradicate all forms of colonialism in the continent. A policy of non-alignment with either of the two world blocs was agreed upon. It was resolved that heads of states, constituting the supreme body, would meet annually or every second year, while a Council of Foreign Ministers would meet at least twice a year.

On the question of colonialism President Julius Nyerere of Tanganyika is reported to have said, "The time for allowing our brethren to struggle unaided is gone". President Ahmed ben Bella of Algeria talked of more than 10,000 Algerian volunteers waiting for a chance to fight, as a first target, for the liberation of Angola. Ghana, the United Arab Republic, Uganda and others promised arms and/or training facilities.

It was decided to set up an African Liberation Committee, with central offices in Dar-es-Salaam, consisting of representatives of 9 states, and that each independent African state would contribute one per cent of its budget to a liberation fund.

All African states were called upon to sever diplomatic and economic relations with South Africa and Portugal, to close their ports and airports and to ban over-flights of aircraft belonging to these two countries.

BANS IMPOSED ON SOUTH AFRICAN AIRCRAFT

Between May and September of 1963 numbers of African states announced that all airport and over-flight facilities would be denied to South African aircraft and, in the case of maritime states, also port facilities for South African ships. In some cases the implications for South Africa were of little consequence since the airports concerned were not on main overseas routes: this applied, for instance, to those in Nigeria, Ghana, the Ivory Coast, Guinea and Ethiopia. It was far more serious, however, when such bans were imposed by Algeria, Libya, the United Arab Republic, Chad, and the Sudan, for this meant that South African aircraft could no longer fly on the most direct route to Europe.

South Africa decided in June to contribute R3,800,000 towards the construction of a modern airfield on Ilha do Sol, one of the Cape Verde Islands, off the west coast of Mauretania, which are Portuguese possessions.[1] It concluded agreements in terms of which its aircraft might land at Luanda in Angola (Portuguese), Brazzaville (ex-French Congo), and, if necessary, Las Palmas in the Canary Islands (Portuguese). Since August the South African Airways has been operating its flights to Europe via either Luanda or Brazzaville and Las Palmas. In November it acquired landing rights in Lisbon. All stages are well within the range of its Boeings and of the maximum mileage permitted by the International Air Transport Association; but approximately 900 miles has been added to each trip.[2]

In August Kenya suggested that African states should ban any overseas airline that operated services to and from South Africa; but this proposal has apparently been shelved or dropped, possibly because the authorities in Kenya realized what the financial implications would be.[3]

TRADE AND OTHER BOYCOTTS

Numbers of African states have imposed total boycotts on trade with South Africa: these include Algeria, Nigeria, Ghana, the Ivory Coast, Guinea, the United Arab Republic, Libya, Tanganyika, Uganda, and Kenya. In some cases additional restrictions have been imposed. Ghana, for example, requires all South African citizens wishing to enter the country to sign a declaration denouncing their Government's policy of apartheid. Guinea has placed a complete prohibition on entry by South Africans and has prohibited cultural relationships. Ethiopia has stated that no South African may travel in an aircraft belonging to its country. Chad has banned any aircraft carrying people or goods to or from South Africa.

(1) *Star*, 14 June.
(2) *Rand Daily Mail*, 30 August.
(3) *Sunday Times*, 15 September; *Star*, 14 November.

At least two Asian countries, too, have severed trade relations and closed their ports and airports to South Africa: these are Indonesia and Kuwait.

Again, some of its decisions are of little immediate practical import for South Africa; but it is likely to suffer economic and cultural losses in other cases: these losses, too, will be experienced by the African states concerned. It is, for example, reported[4] that in 1962 the Republic sold goods worth R6,530,000 to Kenya and bought products from that country worth just over R2,000,000. But even if the boycotts have little effect on existing trade they shut off potential new and increasingly valuable markets for South African products.

The Kenya Government refused *visas* to South African scientists who had planned to attend a Cartographic Conference held in Nairobi under the auspices of the Economic Commission for Africa in July, and a congress of the International Union for Game and Nature Conservation which met in Nairobi the following month.

Early in August Kenya announced that it would refuse *visas* to South African delegates to a congress of the International Olympic Committee, which was to have met in Nairobi. The committee stated that, in this case, the venue would be changed to Baden Baden in West Germany. Kenya then decided that it would admit a South African delegation if this was a multi-racial one; but by then the Olympic Committee had put its altered plans into operation. In the event an African was included in the South African delegation.

Most of the bans described in the preceding pages apply to Portugal as well as to South Africa.

On two occasions, in July and August, Danish dockworkers refused to unload cargoes from South Africa being transported in freighters belonging to Sweden and West Germany respectively, and the ships had to be diverted to ports in other countries. Later in August these workers did unload a cargo of South African manganese ore from another Swedish freighter: it was reported that a court had ruled that their previous refusal was unlawful in terms of Danish industrial legislation.[5]

DIPLOMATIC RELATIONS

Shortly after the Group Areas Act was passed in 1950 India recalled its diplomatic representatives from South Africa. After that any necessary diplomatic or consular business was conducted through the missions of the two countries in London. But at the end of July India decided that in future such business would be negotiated only through the good offices of the British Government.[6]

(4) *Star*, 15 November.
(5) *Sunday Times*, 7 July.
(6) *Star*, 1 August.

Towards the end of September the Israeli Government recalled its Minister to South Africa and decided not to replace him. It is now represented by its legation counsellor as *chargé d'affaires*. South Africa has no diplomatic representation in Israel.

The Republic severed its last official link with Black Africa when it recalled its Consul-General and his staff from Nairobi shortly before Kenya became an independent country. The only diplomatic and consular ties it retains in the continent are in Southern Rhodesia and the Portuguese territories.

SOUTH AFRICA'S MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS

INTERNATIONAL LABOUR ORGANIZATION

In 1963 it was the turn of the South African Confederation of Labour to submit a panel of names from which the Minister of Labour would select a workers' delegate to the conference of the I.L.O., and the turn of Tusca to suggest names for the selection of an adviser. As in past years the Minister did not consult Sactu. Mr. J. H. Liebenberg was chosen to be the delegate: he and the adviser are both Whites. Sactu lodged an objection with the I.L.O.'s Credentials Committee against Mr. Liebenberg's selection on the grounds that it represented the majority of African trade unions and these unions had not been consulted. By a majority vote the Credentials Committee rejected this objection; but as the vote was not unanimous it was possible for this decision to be overruled by the I.L.O. in plenary session.

The I.L.O. conference assembled in Geneva in June. When the South African employers' delegate was given permission to speak on a matter under discussion representatives of African states rose in quick succession to protest, pointing out that in 1961 the conference had advised South Africa to withdraw from membership until such time as it abandoned its apartheid policy. Uproar ensued. A motion by an African delegate that the session be adjourned until the following day was carried by an overwhelming majority.

Next day the South African again rose to speak. Delegations from the African states, the Soviet bloc, and most of the Asian and Latin American countries walked out while his speech was in progress.

The Africans then decided that they would abstain from participation in the work of the conference unless the South Africans withdrew. After a heated debate, there was a mass walk-out of the delegations from African states, the Soviet bloc, Arab states, and Israel. The Africans refused to return. A Russian motion, later, that the conference should adjourn in sympathy with the African protest was defeated by a large majority.

When the South African Government delegate was granted the floor at a subsequent stage in the proceedings a further walk-out took place, on an even larger scale than before.

During the debate on the report of the Credentials Committee the conference decided to overrule the committee's decision and to invalidate Mr. Liebenberg's credentials on the ground that African trade unions in the Republic had not been consulted about the appointment of a workers' delegate.

After the proceedings of the conference had been concluded the I.L.O. governing body met (South Africa is not a member of this). It decided that because South Africa had persistently contravened the terms of the 1958 Convention against Discrimination she would for the next year be excluded from all committees; and it resolved to negotiate with the United Nations for the expulsion of South Africa from the international community. (The I.L.O. constitution does not provide for the expulsion of a member. This constitution can be amended only by a two-thirds majority vote of delegates at a conference, and the amendments must be ratified by two-thirds of the member states. Even if the constitution were amended to provide for expulsion and South Africa were expelled she could promptly rejoin, since membership of the I.L.O. stems from membership of the United Nations.)

A delegation from the governing body met U Thant in July, and it is reported[7] that on his advice this body decided to await the outcome of proceedings at the 1963 Session of the United Nations. It has set up a committee to study how the I.L.O. can best help to eliminate apartheid.

ECONOMIC COMMISSION FOR AFRICA

In February certain African states submitted a draft resolution that South Africa and Portugal be expelled from the E.C.A. An amended resolution was passed, however, asking members to take the policies of South Africa into consideration when representatives of the Republic applied for *visas* to attend meetings to be held in their territories.

Dr. Verwoerd announced on 15 July that until the African states changed their attitude South Africa would withdraw from conferences and activities of the E.C.A. and would cease providing African states with the forms of assistance involved in this connection. Next day the Minister of Information made it clear that the Republic was not withdrawing from the Commission, but was merely ceasing to play an active part.

But a fortnight later the United Nations Economic and Social Council decided by majority vote that South Africa should not take any part in the work of the E.C.A. until a change in her racial policy had restored conditions for constructive co-operation.[8]

(7) *Star*, 13 November, and *Rand Daily Mail*, 16 November.
(8) *Rand Daily Mail*, 16, 17, and 31 July.

C.C.T.A. AND C.S.A.

It was mentioned last year that South Africa did not attend a meeting of the Commission for Technical Co-operation in Africa (C.C.T.A.) held in the Ivory Coast. Certain African states had earlier threatened to move her expulsion. The Republic subsequently withdrew from this body.

A meeting of the Council for Science in Africa (C.S.A.), due to be held in Dahomey in October, was postponed because the South African delegates were refused *visas*. Dr. S. Meiring Naude, president of South Africa's Council for Scientific and Industrial Research, attended a subsequent meeting of the executive committee of the C.S.A., which was held in Paris. On his return he said that the 2 South African, 2 French, and 1 British members would withdraw to give African states the control they wanted. The countries that were withdrawing would become corresponding members.[9]

WORLD HEALTH ORGANIZATION

At a meeting of the regional committee for Africa of the W.H.O., held in Geneva in September, delegates from 24 African states walked out in protest against the presence of representatives from South Africa and Portugal. The meeting had to be adjourned because there was then no quorum.[10]

F.A.O.

At the opening of a meeting of the U.N. Food and Agricultural Organization, held in Rome in November 1963, Ghana called for an amendment to the constitution to make it possible for a member state to be expelled by decision of a two-thirds majority at a conference. The constitution of the F.A.O., like that of the I.L.O., makes no provision for excluding members.

Ghana's motion failed to obtain the necessary two-thirds majority: 47 states voted for it, 36 against, 11 abstained, and 10 were absent.[11]

On 5 December the Plenary Conference decided to exclude South Africa from any regional meeting in Africa.[12]

OTHER CONFERENCES

By majority decision (38 votes to 25 with 9 abstentions) a U.N. Conference on Tourism, held in Rome during August, declared that the presence of South African and Portuguese delegations was inopportune and undesirable, and invited them to withdraw.

A congress of the International Red Cross was being held in Geneva at the same time. Afro-Asian delegates are reported to have planned to protest against the presence of South African representatives, but they took no further action on finding that the delegation from the Republic was a multi-racial one.

(9) *Ibid.* 2 November.
(10) *Star*, 24 September.
(11) *Star*, 18 November.
(12) *Ibid.* 5 December.

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N.B.—This is not an exhaustive index: the wide range of subjects covered makes this impracticable in the space available. It is hoped, however, that an adequate guide has been presented to the topics dealt with. The index should, if necessary, be consulted in conjunction with the Contents.

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